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## NOVEMBER MEETING

THE stated meeting was held on Thursday, the 11th instant, at three o'clock, P. M.; the senior Vice-President, **SAMUEL A. GREEN**, in the chair.

The record of the October meeting was read and approved; and the list of donors to the Library during the last month was read.

Dr. **GREEN** announced the gift, by the New England Society of New York, of a bronze medal, recently struck by Tiffany and Company, to commemorate the one hundredth anniversary, in 1905, of the founding of that Society.

Dr. **GREEN** then said:

My first duty this afternoon is to announce the death of Colonel Theodore Ayrault Dodge, a Resident Member, which took place at his *château* in France, on October 26. He was a native of Pittsfield, where he was born on May 28, 1842. He received his early education abroad, having studied in Berlin and Heidelberg, and graduated at the University of London in 1861. At the outbreak of the Rebellion he returned home and enlisted in the ranks, and served in every capacity from that of a private to a colonel. Later he was given a commission in the regular army, and also four brevets, for gallant services on different occasions, and was placed on the retiring list for wounds received in the line of duty. He was chosen a member of the Society, on May 14, 1896, and later he gave a complete set of his historical and military works,—a valuable addition to the Library. In accordance with custom a tribute will be paid to his memory at the next meeting by our associate Colonel Thomas L. Livermore, his friend, who is to-day temporarily absent from his home.

It is also my duty to announce the death of Henry Charles Lea, an Honorary Member of the Society, which took place in Philadelphia on October 24. He was first chosen a Corresponding Member on October 14, 1875, and later, on October 9, 1892, was transferred to the Honorary list. An active worker in many branches of useful labor, he enjoyed a wide reputation

both at home and abroad. Professor Charles H. Haskins will prepare the customary tribute to him, which will be read at the next meeting. The passing of an Honorary Member is now made a special occasion, when formal and suitable action is taken by the Society. Membership on this roll implies services in historical or literary work of more than usual importance.

I wish to call attention to a new volume of Proceedings, third series, volume II., containing the minutes of the meetings from October, 1908, to June, 1909, both inclusive, which has been received by the members within the last few days. It will be noticed that a change has been made in the numbering of the volume, which is to be known as "Vol. 42" in sequence from the beginning, as well as "3 series II."

In connection with this subject I wish to quote from a letter received from the Hon. John Bigelow, who in a fortnight will be ninety-two years old, and is the last survivor of those who have held important European diplomatic positions during the War of the Rebellion. For some years Mr. Bigelow's name has stood at the head of our list of Corresponding Members, he having been chosen at the February meeting of 1875. Under date of November 6, 1909, he writes me:

The Proceedings of the Massachusetts Historical Society constitute a body of historical literature many times more valuable than those of any other historical society in the United States,—so far as I know; and by your new Index of the Proceedings for twenty-three years you have fully as many times increased the value of those Proceedings by making them so conveniently accessible to the student. It is a model piece of work of its kind and one which any student can pore over with interest and profit, even though he has none of the volumes to the contents of which his attention is invited.

JONATHAN SMITH read the following paper:

**THE MASSACHUSETTS AND NEW HAMPSHIRE BOUNDARY LINE  
CONTROVERSY, 1693–1740.**

In 1628 the Council of Plymouth granted to Sir Henry Roswell and five others, and to their associates, the land lying between a point three miles south of the Charles River and a point distant three English miles to the northward of the river called Mónomack, otherwise Merrimack, "or to the northward of any and every parte thereof." In 1677 Charles

II and Council, upon the report of the Lord Chief Justices, in a controversy between the Colony of Massachusetts Bay and Mason and Gorges, concerning the line, defined the boundary in the same language. Again, in 1691, in the charter of William and Mary creating the Province of Massachusetts Bay, the northern boundary of the Province was fixed at the same place by identical language. The description of this north line, in the decree of 1677 and also in the charter of 1691, is obviously copied from the charter granted by the Council of Plymouth, dated 1628. At the last date the true course of the Merrimack River was unknown. In 1677 and in 1691 the people of the colonies knew its direction. Evidently the King and his advisers cared very little about the facts, or at least took no steps to discover them, and were content simply to reaffirm the line as originally described. Their conduct in the matter shows how indefinite the knowledge of the English authorities was relating to colonial geography and their loose and careless methods of transacting business connected with their New England possessions.

In this instance the ignorance or carelessness of the granting power gave rise to a bitter controversy between the two provinces which lasted for forty-eight years, brought suffering and heavy loss to many deserving people, and inflicted wounds which were not healed until the Revolutionary War.

In the controversy New Hampshire took the ground that when the grants were made, the earlier as well as the later, the English authorities supposed the general course of the river to be easterly from its source to its mouth;<sup>1</sup> that the line was fixed under mistake of a very material fact, and that it should be finally established where, under the wording of the charters, it would be if the river had an easterly direction through its whole length. Massachusetts clung to the strict letter of the grants,<sup>2</sup> and as far as the language describing the line went had right upon its side. Under a well-known rule of equity law, however, the justice of the case was upon the side of New Hampshire. It was a vital matter with our northern neighbor, and meant to her much more than the twenty-five hundred square miles of territory involved in the dispute, for her very existence as an independent province

<sup>1</sup> N. H. State Papers, xix. 243; <sup>2</sup> 299.

was included in the issue, and this was probably the key to her conduct in the premises. The action of Massachusetts, taken possibly to strengthen her claim to the disputed territory before the King and Council, and the consequences of that action to her grantees and those claiming under her, concern this paper.

In 1693 New Hampshire took the initial step by appointing a commission to run the line between the two provinces, and invited Massachusetts to join in the work.<sup>1</sup> The request was declined.<sup>2</sup> From that time forward for twenty-three years, interrupted, it is true, by several Indian wars, she renewed repeatedly her efforts to settle the matter, and each time was defeated by the Massachusetts authorities. At last, in 1726, the State appealed directly to the King and Council.<sup>3</sup> This move stirred the Bay-State officials to vigorous action.

Prior to 1726 this State had granted but three townships, or parts of townships, in the disputed territory. It had also made many grants of land in plats varying from one hundred to one thousand acres each, to soldiers in consideration of military duty done, or to their heirs, to officials for valuable public service, and to Massachusetts towns on account of their burdens of taxation, or for schools and public improvements. Up to that date, 1726, it had granted but eleven townships in whole or in part in the preceding one hundred years in what is now New-Hampshire territory. These had been given to actual settlers, and as a general rule no conditions had been attached to the grants. When it was found that by the appeal the question would have to be settled by a tribunal in England, the Massachusetts authorities entered upon a more radical policy, taken, it is reasonable to believe, in order to strengthen their cause before the court which was to decide it. It was apparent to them that if this controverted territory was settled by Massachusetts citizens, bound to her by ties of nativity, business interests and title to the soil, it would furnish a strong, if not conclusive, reason for a judgment in their favor. It is to be frankly said that no declaration by any Massachusetts official has been found which avows that to be the reason for this action following the appeal of New Hampshire in 1726. But that such was

<sup>1</sup> N. H. State Papers, xix. 181; <sup>2</sup> Mass. Archives, iii. 479.

<sup>3</sup> N. H. State Papers, xix. 200.

the real motive, concealed though it was, the evidence does not seem to admit of much doubt. The fact is shown by the manner Massachusetts dealt with this land after the appeal in comparison with the way it had dealt with it before. The New Hampshire authorities so believed, and openly charged it in their papers and arguments at the trial.<sup>1</sup> Some of the historians of the period openly suggest it<sup>2</sup> or admit the existence of such a belief,<sup>3</sup> and when the commissioners gave their alternative decision to the King and Council in 1739, they had the facts of these grants and the many settlements made under them inserted in the papers of the Massachusetts case when it went to the higher tribunal.<sup>4</sup>

The reason publicly given for many of them was, however, very different. It was said that this disputed territory might be employed to form a barrier against Indian raids.<sup>5</sup> The Canadian Indians in their attacks upon the settlers entered the country either by the head waters of the Connecticut, or else by the Champlain valley, crossing Vermont by trails from the lower end of the lake to the Connecticut River; and they either passed down the Connecticut valley, or crossed by another trail to Lake Winnipiseogee and thence marched down the Merrimack valley. It was thought that if a line of towns was granted and settled between Dunstable and Northfield thence up the Connecticut to Bellows Falls, across the country from Bellows Falls to Penacook, and thence down the Merrimack to Dunstable, a barrier against savage invasion would be created that would make life and property comparatively secure.

On April 30, 1726, the New Hampshire legislature voted to instruct its agent in London, Henry Newman, to lay the question of the boundary line before the King and ask him to settle it.<sup>6</sup> In December of the same year a committee, previously appointed, reported to the Massachusetts legislature that, "considering the Forwardness of the great Number of the Petitioners to Settle themselves and their Children" on lands,

<sup>1</sup> N. H. State Papers, xix. 235-238, 536, 537; iv. 844; v. 928.

<sup>2</sup> Douglass, Summary, i. 424; Hutchinson, ii. 344.

<sup>3</sup> Hutchinson, ii. 299.

<sup>4</sup> N. H. State Papers, xix. 403.

<sup>5</sup> Mass. House Journal, Message of Gov. Dummer, May 29, 1724, of Gov. Belcher, June 1, 1732, and May 28, 1736.

<sup>6</sup> N. H. State Papers, xix. 201.

and "the shortning the Western Frontiers more than Sixty Miles, if a Line of Towns were settled between Dunstable and Northfield and thereby the Charge of the Government in time of War would be sunk."<sup>1</sup> The House voted to survey and lay out a line of towns, each six miles square between these two points. There were differences between the House and Council over some details of the Act, and the measure was put over till the following year, when it was enacted by the legislature.<sup>2</sup> At the same time it was voted to lay out a line of towns between Dunstable and Penacook, and three towns next to the Connecticut River.<sup>3</sup> In these resolutions the House asserted that the settlement of these towns would "Vastly lessen the Charge of the Defence of this Government in time of War."

The towns laid out on the south line were never granted, but in 1728 two towns on the eastern line were.<sup>3</sup> The others were not voted until 1735 and 1736, when the legislature granted not only three towns on the Connecticut River but also a line of nine towns from Penacook straight across the State to Bellows Falls.<sup>4</sup> Between 1728 and 1736 the subject was kept before the legislature at every session. In his message, in June, 1732, Governor Belcher called special attention to the subject, and again, in 1736, said: "I hope this Court will give all proper Encouragement for a Speedy settlement of those Lands, which will fix such a Barrier for that part of our Frontier, as will be of great Safety to the Province upon any Rupture that may happen with our Neighbours."<sup>5</sup> Such conditions were coupled with these grants as, it was hoped, would secure their speedy and permanent settlement. The grantees were required within a limited period to lay out sixty-three lots in their several townships; to settle upon them within three years sixty families; each family was to build a house at least eighteen feet square and seven feet in the stud; and to clear, fence and bring under cultivation six acres of land. The grantees were further required to set aside one lot for the ministry, one for the first minister and another for the school; and to build a meeting house and settle an orthodox minister

<sup>1</sup> Mass. House Journal, Dec. 9, 1726; <sup>2</sup> June 14, 1727.

<sup>3</sup> Mass. Province Laws, xi. 355, 378; <sup>4</sup> xii. 225.

<sup>5</sup> Mass. House Journal, Messages of Gov. Belcher, June 1, 1732, and May 28, 1736.

within the same period.<sup>1</sup> Furthermore in many grants each of the settlers, or, in some instances, the grantees were ordered to give bonds of £20<sup>2</sup> and in some cases £40 to perform these conditions.<sup>3</sup> As far as related to these towns the effort did not wholly succeed. In three of them<sup>4</sup> the land was found to be so sterile and rocky that the grantees refused to accept the gift and later asked for and obtained land in other States. In other instances the Indian war of 1744 and the doubt about the title led to the total abandonment of the settlements and compelled the settlers who returned to their grants to begin anew under another authority.

But the granting of these so-called "line towns" was only one step in the plan pursued. Pretences were encouraged and even sought after to entitle persons to qualify as grantees. Many petitions for soldiers were laid before the legislature asking grants of wild land which furnished an outlet for the spirit which seemed to have possessed the governing bodies of the Province. In 1728 two towns had been given to the soldiers of Lovewell's War of 1725, and in 1735 the territory now covered by the city of Manchester was voted to the men who served in the Indian war of 1703 and 1704. Within two years of the latter grant the legislature voted nine townships, three of which were in this disputed area, to the soldiers, or their heirs, of the Narragansett War of 1675 — one township to every one hundred and twenty persons entitled. This grant was made fifty-nine years after that war closed and when but twenty-nine out of the whole number of two hundred and thirty-two men serving, survived, less than one in ten. In 1735, 1736 and 1737 nine towns were also voted out of this territory to soldiers, or their heirs, serving in the expedition against Canada in 1690. These do not include a large number of gifts to individuals on grounds of special service or special hardships and loss in those and other campaigns against the public enemy.

Besides all these, seven towns were voted directly to speculators who, through purchase, also acquired title to many of the towns already demised. From 1728 to 1738 inclusive, Massachusetts granted thirty-one entire townships out of this debatable territory, and this does not cover the whole of its

<sup>1</sup> Mass. Province Laws, XII. 226; <sup>2</sup> 144; <sup>3</sup> 225.

<sup>4</sup> N. H. State Papers, xxiv. 1-6, 154.

prodigal policy. As before intimated, there were large numbers of gifts on petition to private individuals,—soldiers, public officials and persons who had fallen into distress. These petitions reflect the conditions of the time and the general poverty and hardships of the people. Ephraim Hildreth and others asked for a township on the ground that they had served the Province as volunteers in the Indian war in the year 1703, "performed a very difficult and hard march" in the winter season "as far as Winnipissiokee-Lake and killed six of the Indian Enemy," that the said company were the "first that attempted to March against the enemy with snow shoes,"<sup>1</sup> "since which the same method had been followed with great success against the Indians."

Again, William Lund desired four hundred acres because being in the service of the Province "he was taken by the Indian Enemy" and carried into captivity, where he suffered great hardships and was obliged to pay a great price for his release and his estate was very much hurt and diminished in his absence.<sup>2</sup>

And so Peleg Wiswall wanted three hundred acres on account of the services and sufferings of his father Rev. Ichabod Wiswall in the employ of the Province.<sup>3</sup> Another asked for three hundred acres because the military company to which he belonged had killed or captured thirty-one Indians and that he "was now old and had a numerous family and no lands to settle them on."<sup>4</sup> Robert Rand alleged that he was grand-nephew of Thomas Goffe, who in England had given valuable service to the colonies and had died on his passage to this country and had never received any land; that he (Rand) was in low and necessitous circumstances and would the Legislature have compassion on him and give him some land.<sup>5</sup> His prayer was answered with a donation of one thousand acres. Among the objects of the legislative bounty were Governors Endicott<sup>6</sup> and Belcher,<sup>7</sup> Treasurer Jeremiah Allen,<sup>8</sup> and Samuel Sewall,<sup>9</sup> the famous diarist, in

<sup>1</sup> Mass. House Journal, Dec. 13, 1734; <sup>2</sup> Dec. 5, 1734; <sup>3</sup> Jan. 28, 1736-37.

<sup>4</sup> Mass. Province Laws, xii. 76, 102.

<sup>5</sup> Mass. House Journal, March 1, 1733-34.

<sup>6</sup> Mass. Archives, xlvi. 227.

<sup>7</sup> Mass. Province Laws, xi. 515; Mass. House Journal, Jan. 5, 1735-36.

<sup>8</sup> Mass. Province Laws, xii. 598.

<sup>9</sup> Mass. Court Records, Nov. 29, 1695.

right of his wife to make good a previous grant to her father, John Hull.

In addition to all this, there were lavish grants to Massachusetts towns. A large tract was given to Uxbridge on account "of the great number of bridges in said town";<sup>1</sup> and to Cambridge, Duxbury<sup>2</sup> and Charlestown<sup>3</sup> for the support of schools. The town of Malden asked for four thousand acres, giving as reason that the bounds of their town were "Exceeding streight; the most of our Improved Lands and Meadow being limited About two Miles in length and one in Breadth; . . . That hitherto we have had no Enlargement from the Countrie; . . . That our Charges to the Countrie & Ministry much Exceedeth Sundry others. . . . Our Teacher Allso hath been long visited with verie great weakness from which it is much feared he will not be recovered."<sup>4</sup> There was hardly a town in Massachusetts then organized, if, indeed, there was a single one, which did not ask for and receive liberal gifts of wild land and many of them were from this area claimed by the two provinces. Out of two hundred and twelve Acts passed by the Massachusetts legislature at its May and November sessions of 1736, fifty-seven related to grants either to individuals or Bay State towns.

The speculative spirit, as might be supposed, was sharply stimulated by this action. There grew up a body of men whose sole occupation was dealing in wild land. Whenever possible they obtained grants of townships directly to themselves, and in other cases they bought out the grantees for a nominal sum and assumed the conditions. They laid out the necessary number of lots, sold one to the settler and promised him another when certain improvements were made, built houses, bridges and roads and often a church and mill. John Hill, of Boston, was a type of these speculators. Between 1730 and 1739 he was either grantee or became part proprietor of eight towns in southwestern New Hampshire, and John Fowle, of Woburn, another of the class, was sole or part owner of six towns in the same section. This does not include their transactions in land in western Massachusetts, nor in Maine during the same or subsequent years. Not only was

<sup>1</sup> Mass. Province Laws, XII. 248; <sup>2</sup> XI. 740; XII. 82.

<sup>3</sup> Mass. Col. Records, Nov. 12, 1659, p. 400.

<sup>4</sup> Mass. Archives, CXII. 147.

the traffic fever increased, but serious consequences followed. "The settlement of the Province," says Hutchinson, "was retarded, a trade of land jobbing made many idle persons, imaginary wealth was created which was attended with some of the mischievous effects of a paper currency, idleness and bad economy, and a real expense was occasioned to many persons."<sup>1</sup>

If the real purpose of this action of the Massachusetts authorities was to strengthen their case before the King and Council, the attempt failed completely, for on March 5, 1740, the case was decided in favor of New Hampshire, and the final decree gave to that State above seven hundred square miles of territory more than she had ever claimed.

Whatever the object of this land policy was, the final result was most disastrous to the Massachusetts grantees and those claiming under them. In a few instances the townships were abandoned without effort to settle them, and the grantees were given equivalent townships in Maine. In most cases, however, strenuous efforts were made to fulfil the conditions of the grant and the owners expended large sums, often several hundred pounds and even more, to carry out their agreements. King George's war of 1744-48 seriously complicated the situation. The settlers of some of the towns abandoned their houses and fled to the older places in Massachusetts. In others they not only suffered from savage incursions, but were put to heavy expense in constructing forts and blockhouses. Where the grants were deserted, all the money which had been expended became a total loss, and everything had to be done over again. Before the war closed, the Masonian proprietors, successors to the title of John Mason, had asserted their right to two-thirds of the disputed lands, and had to be reckoned with before a resettlement could be made or a good title secured. Every Massachusetts grantee lost his land, and the forfeiture cost some of them dearly. John Hill before named, one of the grantees of Hillsborough, in his petition to the Masonian proprietors for confirmation of his grant, said that he had been at near £20,000 charge in the attempt "of Setling that Remote Wilderness."<sup>2</sup> In another memorial to the same proprietors in

<sup>1</sup> Hutchinson's Hist. Mass., II. 299, 300.

<sup>2</sup> N. H. State Papers, xxvii. 351.

behalf of himself and co-grantees of New Boston, he represented that they had laid out a township, built a meeting-house, saw-mill, sixty dwelling-houses, two bridges and many roads, to the amount of £4500, which would be a total loss through Indian wars and defeat of title.<sup>1</sup> In case of another town it was asserted they had done these things and settled thirty families on the lots. In 1760 the proprietors of Rindge presented a memorial to the Massachusetts legislature which, after stating their loss of title, asked leave, among other things, to raise the sum of £1282 6s. 9d. by a lottery, alleging they had paid £682 6s. 9d. in taxes on their grant and £600 at the lowest computation "which hath been Expended in Buildings and Bringing forward Settlements."<sup>2</sup> When the Masonian proprietors had title, they were asked for regrants, which in most cases were given, the proprietors reserving to themselves large sections of what was supposed to be the best land in the town. In other cases grants in a few instances were obtained from New Hampshire, and, in others, from Massachusetts out of its eastern lands. In all cases within the contested area the title of the grantees and settlers under the Massachusetts acts proved entirely worthless.

The hardships and loss entailed upon the individual settlers were very severe. The fruits of all their previous expense and labor were put in jeopardy, and the doubt and uncertainty of their titles occasioned bitter distress and anxiety. Some deserted their claims entirely; others asked for grants of other lands or besought the Masonian proprietors to confirm their titles. These petitions are pathetic for their rude but vigorous descriptions of the grievances under which the settlers were suffering, and reflect the social and economic conditions of the time. Rev. Ebenezer Flagg, of Chester, thus writes to the Masonian proprietors: "I need not tell you that Country Ministers Are generally pretty poor, And their Small Salaries forbid them thinking to lay up Anything for their Children that way; this is *So obvious*— Therefore I took this Scheme that my Children After me might Not be Beggars or Idle, but to get An honest living with the Sweat of their faces, Obtained five Rights in Hales Town [now Weare] the Duty of which Rights I proposed to perform According to ye Genl Courts Act. But now I find the property belongs to Yourself

<sup>1</sup> N. H. State Papers, xxviii. 51; <sup>2</sup> Mass. Archives, cxvii. 611.

. . . I have Already Expended considerable Money & have a SawMill fit for Business, A house not quite fit to live in And have cleard About Eight or ten Acres of land And to lose all this must be hurtful to me & my children Therefore I Intreat your favour that I might yet hold those Rights.”<sup>1</sup>

John Hale says in his petition to the same proprietors: “Your Memorialist about 24 Years ago Purchas’d . . . a Proprietors Share in the Township called Rowley Canada [Rindge] . . . And Entred upon it Built a House and Cleared about 30 or 40 Acres of Land and Paid the Taxes on it And possess’d it for Some Years Not Doubting but he had a Legal Title to Said Lands and that on your Extending Mr Mason’s claim to those Lands he gave them up whereby He Suffered Great Loss Having Expended more than An one hundred Pounds Lawful Money on them: And others Under Your Grant Recd the Benefit of his Cost & Labours He Therefore Prays Gent: that you<sup>l</sup> take the matter under Consideration (his Loss and Interest on it Amounting to More then Two Hundred Pounds Lawful money).”<sup>2</sup>

The grantees of Manchester asserted in 1751 that they had been harassed by lawsuits since 1742, every suit had been decided against them except one, and that they and their grantees had been ejected from their lands or had to repurchase them, at an expense of several thousand pounds in defending their rights beside the loss of all their labor and improvements.

There was a great deal of litigation. The suits were brought by New Hampshire claimants against the Massachusetts holders, in the New Hampshire courts, and were tried by New Hampshire judges and juries. There could be but one outcome and the verdicts were uniformly in favor of the New Hampshire claimants. Where the Masonian proprietors regranted the townships they in many instances guaranteed the title but this did not aid the Massachusetts holders. The legislature in February, 1736, perhaps with probable litigation in view, but professedly that the settlers might “know in what County they be, in Order to have their Title Recorded, the Kings peace preserved, and Common Justice done them,” assigned the townships among the four northern counties of this State.<sup>3</sup> Sometimes the defeated litigants not only lost

<sup>1</sup> N. H. State Papers, xxviii. 453; <sup>2</sup> 206.

<sup>3</sup> Mass. Province Laws, xii. 342.

their title, but were imprisoned on the executions issued.<sup>1</sup> Scattered through the Province Laws for several years following 1748 are many acts granting lands to petitioners who had been ejected from their holdings by the New Hampshire courts. Two cases growing out of the famous Bow controversy were appealed and had their final trial in London. In both, the judgments of the New Hampshire Courts were reversed and the tenants held their lands. The first was one determined in 1755 by the King and Council, in which the Massachusetts claimant had Sir William Murray for his Attorney. The second decided by the Court of King's Bench was not ended until 1762. In the meantime Murray had been appointed Chief Justice of the Court of the King's Bench and himself gave the opinion. He held that whoever first settled on a grant from either State his possession, followed by occupation and improvement, gave a good title.<sup>2</sup> This equitable principle of law would have sustained every Massachusetts grant, but it came too late to be of help to any save the parties to that action. The Massachusetts settlers had either abandoned their claims or already repurchased them from the Masonian proprietors or of the New Hampshire grantees. But for twenty years following the establishment of the boundary there was constant litigation in which the expenses bore heavily on the losing parties,<sup>3</sup> and left a feeling of anger and bitterness, which lasted many years. It is not an attractive chapter in provincial history.

Mr. THAYER read a paper entitled:

AN ITALIAN NOBLEMAN'S GLIMPSE OF BOSTON IN 1837.

We Americans have certainly never lacked the advantage of knowing what our neighbors have thought of us. Instead of being humbled, however, I fear that we have been made either self-complacent or stubborn; for we have too often had reason to suspect that our foreign critics spoke from ignorance or from condescension,—which is a peculiarly offensive variety of ignorance. Travellers' impressions possess, however, at least one positive value—they reveal the character of the traveller.

<sup>1</sup> N. H. State Papers, xxiv. 291.

<sup>2</sup> Joseph B. Walker, Bow Controversy, 1901, 28.

<sup>3</sup> N. H. State Papers, xxiv. 48.

When a distinguished English "literary lady" at a tea in Cambridge recently said to her hostess, "This sandwich is very nawsty," we learned more about the manners of that literary lady than about the sandwich.

Not long ago, I was turning over the journal of an Italian nobleman who travelled in the United States in 1837. The book, so far as I can discover, has never been read or even mentioned over here. There is no reference to it in Mr. John Graham Brooks's "*As Others See Us*,"—that shrewd and enlightening survey of our foreign critics' indictments; nor have I seen it noted elsewhere. The author, Count Francesco Arese, came of a family of Lombard patricians. Born in 1805, he was early banished for his Liberal opinions. In his youth he became very intimate with a fellow-exile, Louis Napoleon, three years his junior, and their friendship lasted unbroken till death. Indeed, after Napoleon thrust himself on the throne of France, Arese was unquestionably the Italian whom he most trusted; and in more than one crisis, when the life of the nascent kingdom of Italy hung in the balance, Arese hurried to France to bespeak the Emperor's good will.

But his American journal dated from many years before that. Count Arese's visit to the United States had a noble and romantic motive. In 1836 Louis Napoleon made his fatuous attempt on Strasburg, was arrested, imprisoned, tried, and sentenced to perpetual banishment across the Atlantic. When Arese heard the news, he hastened to Liverpool, took passage for New York, and was on the wharf to welcome the homesick young pretender, as his ship arrived. That such a Damon-and-Pythias attachment should flourish with Louis Napoleon as one of its members, is the best thing that can be said of him.

After staying in New York for a while, the two friends set out on their travels; but the Prince soon returned to Europe and settled in England. Arese, on the other hand, made a tour not only of the Atlantic seaboard, but into what was then the far West. His descriptions of life with the Indians and of the frontier conditions are among the most interesting parts of his journal. There is nothing actually novel in them, I suppose, but there is much that well repays reading. They are also unique, because no other highly cultivated, much travelled and observant Italian has left any similar account of

our country as early as the thirties of the last century. Arese's "Notes," as he modestly called them, might be worth translating and publishing entire. I have translated the page or so that relates to Boston. The original, in French, was never polished or even written out by the Count,—indeed, it first appeared in print after his death,—so that it has all the brevity and slurs of syntax that we expect to find in a traveller's memoranda hastily jotted down. I have not attempted to be smoother than the original.

I left Providence by railroad and after having traversed an insignificant country I arrived at Boston.

Boston is a beautiful and large City; many persons, above all the Bostonians, regard it as the handsomest city of the United States; for myself, I prefer Philadelphia, and above all, New York. Boston greatly resembles an English town, and in its finest quarters you might easily believe yourself in London. The panorama one enjoys from the top of the City Hall [State House?] is wholly beautiful.

Boston is built, so to speak, on an island, and is united to the neighboring mainland by only six or eight bridges. The town [is] called the Athens of America because its inhabitants are more intelligent than those of the other cities, who take their revenge by taxing the Bostonians with coldness and stiffness. I could not judge for myself, having stayed there too short a time. The Dry Dock, a basin perfectly constructed entirely of stone, serves for taking ships out of the water in order to copper-bottom them. When I was there the frigate *Ohio* was about to be coppered.

The Bostonians are proud of what they call their Père-la-Chaise, which they have the audacity to put on the same level with, or even above that of Paris; "blessed are the poor in spirit," says the Gospel: there is their epitaph ready made; it is quite true that the situation of this cemetery is magnificent, and that the view one enjoys from the highest point is very extended, but so far as the monuments go the boundary posts of the postal routes in Italy would here be admired not only for the beauty of their granite but also for their good taste as architecture.

I went to several booksellers' shops, which I found well stocked with foreign works, there being magnificent editions of these made in Boston which could bear comparison with the best English and French editions, and which were certainly superior to what is engraved and printed in the rest of Europe; but the somewhat high prices of these books prevented me from purchasing as many as I should have wished.

I visited the Athenæum and Museum, an establishment founded by

the subscriptions of the citizens. Among other things one finds there casts of our best statues and groups, a collection of coins, and a considerable library. The director,<sup>1</sup> whose name I greatly regret to have forgotten, showed me some precious manuscripts, and, among the most beautiful works, he showed me that of my compatriot, Giulio Ferrari; if I am not mistaken the title is *I costumi di tutti i popoli della terra*. My national pride was so much stirred by the pompous eulogies which he made on the work of Italy and on the Italians that I could not refrain from telling him that I belonged to that beautiful and unhappy country. Then he added things very agreeable to the ear of a true patriot, and informed me that the Americans owe to an Italian, to Carlo Botta, the best history of their country.

I visited the Market and other things of little importance. I attended the representation of a tragedy, very well played, in a fairly pretty theatre, and before a public composed of a better class than one generally meets in the New York theatres. I went to see the University at Cambridge. I made a trip to Bunker's Hill, where was won the first battle against the regular troops of Great Britain by simple American farmers,—a victory which inspired a confidence in the Americans and which served as an opening to the great drama of which we see now the gigantic results.

When the Americans read in the travels of Fanny Kemble that a gentleman (if indeed one can designate him by this name) seeing another in a steamboat brush his teeth, begged him to lend him the brush when he had finished, which the latter did very politely, but when the brush was returned, he threw it overboard; the other took umbrage and asked whether he thought his mouth was cleaner than his own (and that, possibly, from the proverb that there is nothing cleaner than the tongue of a dog); happily, the affair was settled amicably: the Americans, I say, on reading this little episode, utter shrill cries, "that's infamy! that's calumny!" In fact, that appears to be a false accusation, a farce, a poor bit of pleasantry. As for myself, in all honor and conscience, I believe the thing, if not true, at least possible and even probable, for in Boston, preëminently the civilized city, and at the Tremont House, the best and most fashionable hotel, there is in every chamber a nail-brush and a tooth-brush for the use of all travellers; let honor be rendered to the truth.<sup>2</sup>

These are the sights to which an intelligent traveller who visited Boston in 1837 was conducted: the State House; the Faneuil Hall Market; the Athenæum, which then occupied the

<sup>1</sup> Probably Seth Bass, M.D., Librarian, 1825-1846.

<sup>2</sup> R. Bonfadini: *Vita di Francesco Arese* (Roux: Turin, 1894), 445-544. "Notes d'un voyage dans les prairies et dans l'intérieur de l'Amérique septentrionale" par le Comte François Arèse en 1837.

house in Pearl Street given to it by Mr. James Perkins; Bunker Hill, which had not yet its completed monument; Harvard College; the Dry Dock at Charlestown Navy Yard, and Mount Auburn Cemetery, consecrated in 1831. Being a studious man, Count Arese naturally wished to see the booksellers' shops: and being an Italian, he listened gratefully to the praise of his countrymen. The first volume of Bancroft's "History" had appeared in 1834, but Carlo Botta—if that amiable librarian, whom I have not identified, spoke the truth—was still regarded as *the* historian of America. That Boston was already accepted as the Athens of America may seem strange to those of our time who imagine that her reputation was founded on the works, now classic, of Emerson and Longfellow, Lowell and Motley, Prescott and Parkman, not one of whom, in 1837, had achieved fame. It brings that day and ours together to remember that if our late associate Dr. Hale were here to-day, as only a few months ago it seemed probable that he would be, he might have told us that it was he who, as a Junior, showed Count Arese round Harvard College, or listened at the Athenæum while the genial librarian extolled Carlo Botta. Count Arese died in 1881. His "Notes of Travel" were printed in 1894.

Dr. GREEN communicated a paper as follows:

**COLONEL WILLIAM PRESCOTT; AND GROTON SOLDIERS AT THE  
BATTLE OF BUNKER HILL.**

The French and Indian War was the school where the chief actors in the Revolution learned their first lessons. Artemas Ward, who was the commander-in-chief of the American army until the arrival of Washington at Cambridge, on July 3, 1775; Richard Gridley, the engineer who laid out the works on Bunker Hill and planned the fortifications around Boston; and William Prescott, the commander at the Battle,—these officers and many others received their early military education during this period. The French and Indian War was the last and severest of the intercolonial struggles, and the Indians fought on each side, though mostly with the French and against the English. The first conflict of arms took place in May, 1754, and the war continued until a treaty of peace was made in February, 1763.

Among the manuscripts belonging to the Historical Society

is a paper which gives the names of twenty-five men who were enlisted by William Prescott in a regiment to be employed for the removal of the Acadians, though no place of enlistment is given. To any one familiar with the home of Prescott the omission to mention the place of enlistment is of little importance, as the family names of the men furnish the desired information. Without doubt they all belonged in Groton and its neighborhood, and there are many descendants still living there. Job Shattuck, whose name appears in the list, thirty years later became a conspicuous character in Shays's Rebellion. It has long been known that William Prescott was a lieutenant in the Provincial army sent in the spring of 1755 to remove the neutral French from Nova Scotia; but this record shows that he had already been active in enlisting men for that purpose. At that period of time the township of Groton spread over a much larger territory than it now covers, but since then by legislative enactment it has been materially dismembered and has lost several towns from the original grant. One half of the men mentioned in this list served in the War for Independence; and, of course, during these intervening years others had died.

The aforesaid paper is found in a volume marked on the back "Winslow Papers 1737-1755" (p. 87); and the list of names is as follows:

A List of the Men Inlisted by William Prescott in a Regiment of foot to be Employed for the Removal of the French Incroachments in North America Whereof His Excellency William Shirley Esq<sup>r</sup>. is Colonel and John Winslow Esq<sup>r</sup> Lieutenant Colonel

Isaac Green	Phinehas Barron
William Spaulding Jun <sup>r</sup>	James Lessley
Eleazer Spaulding	John Lessley
John Kemp Jun <sup>r</sup>	George Lessley
Jabez Kemp	Amos Whiting
Jonathan Shedd	Eliphalet Dinsmore
William Shedd	Asa Dinsmore
Eleazer Whipple	Jonathan Melvin
Isaac Williams Jun <sup>r</sup>	Job Shattock
Samuel Fisk	Simeon Lakin
Nathaniel Sartwell	Abraham Boyenten
Simon Lakin	Moses Woods
	Oliver Eliot

February 28<sup>th</sup>. 1755

It was in the spring of 1755 that the territory of Acadia, or Nova Scotia, fell under British authority; and the conquest was followed by a terrible act of cruelty and violence. The simple Acadians, unsuspecting of any untoward designs of the English leaders, were assembled in their churches in obedience to military proclamation; and thence, without being allowed to return to their homes, were driven at the point of the bayonet aboard ship to be scattered through the English colonies in America. This was done with so little regard to humanity that in many instances wives were separated from husbands and children from parents, never to see one another again. It was upon an incident connected with this act of tyranny that Longfellow's poem of "Evangeline" is founded. Our pity for these unfortunate people will be stronger when we reflect that in their exile they were miserably poor, among a race who spoke a strange language, followed other customs and abominated their religion.

In the report of a Committee, dated April 18, 1761, which was appointed by the General Court to distribute French Neutrals among the towns of Middlesex County (Massachusetts Archives, xxiv. 468) it is stated that they have assigned to

Groton	Rain Bobbin	[aged] 37
	Marg <sup>t</sup> his wife	39
	John his son	13
	Matturen D <sup>o</sup>	11
	Joseph D <sup>o</sup>	8
	Eliz	5 weeks
Pepperil	Marg <sup>t</sup> Marichal	18
	Mary Bobbin daugh <sup>t</sup> of Rain Bobbin	3
Townsend	Paul Oliver Bobbin	7
	Peter Bobbin son to Rain Bobbin of Groton	5

The surname, perhaps, is spelled wrong, as people in those days were not used to writing foreign words; very likely it should have been Beaubien. Other families were sent at the same time to Dunstable, Westford, and Littleton.

In connection with the reference in this paper to William Prescott, it may be of interest to note a fact that bears closely on the question of the commandership at the Battle of Bunker Hill. The circumstances surrounding the army at the

beginning of the Revolution were such that there may have been only slight formality in assigning a command, but there is no evidence that Prescott ever received any order from others in that memorable engagement, while he himself acted under orders from General Ward. In modern times certain captious critics have tried to deprive the old Revolutionary soldier of the credit of this command; but it was the universal testimony of his army comrades, that the supreme authority in that action rested with him alone. The fact alluded to at the beginning of this paragraph is found in a letter from General Ward to John Adams, written four months after the battle was fought; and by the courtesy of the Adams family I am enabled now to print it, as follows:

ROXBURY CAMP, October 23, 1775.

SIR, — Yesterday I Rec<sup>d</sup>. your favour of the fifth Instant, a week after the arival of M<sup>r</sup> Lynch,<sup>1</sup> although I had been twice in his company before. I have indeavoured to treat the Gentlemen Committe with Decency and Politeness, I invited them to Roxbury twice. The day after I invited them M<sup>r</sup>. Lynch came to Roxbury, but did not dine with me, he being Ingaged to dine with Genl. Washington as he said. The next day I was at Cambridge, and mentioned to Washington his and the Com<sup>tee</sup> dining with me. He answered they could not untill they had finished their business and he would let me know when they would come and dine with me. Major [Samuel] Osgood informs me Gen<sup>l</sup>. Washington told the Com<sup>tee</sup> that I depended on their dining with me this day.

This day Gen<sup>l</sup>. Gates wrote to the field officers of y<sup>e</sup> Connecticut forces, that the Com<sup>tee</sup> did accept their invitation to dine with them, and accordingly came and dined with them. When they came I informed them I expected they would have dined with me, they said they thought till then, that accepting of the one invitation, was accepting the other; that is they were one and y<sup>e</sup> same invitation. I afterward invited them to dine with me tomorrow. They told me if they did not set out on their Journey they were Ingaged to dine with Gen<sup>l</sup>. Putnam. I think I have given a true state of facts, and now Judge whither, I have been deficient in inviting, and whither I have not been Ill treated. What would not some men do, to make this Colony and the Inhabitants thereof appear contemptible?

<sup>1</sup> Thomas Lynch, member of the Continental Congress from South Carolina and at this time one of the special committee sent by Congress to report upon the army. The other members of the committee were Benjamin Franklin and Benjamin Harrison.

Oct. 30, 1775.

They do not boast so much of the Riflemen as heretofore Gen<sup>r</sup>. Washington has said he wished they had never come; Gen<sup>r</sup> Lee has damned them and wished them all in Boston; Gen<sup>r</sup> Gates has said, if any capital movement was about to be made the Riflemen must be moved from this Camp.

I am in great concern about the raising a new army, for the Genius of this people is different from those to the southward. Our people are Jealous, and are not Inclineable to act upon an Implicit faith, they Chuse to see and Judge for themselves. They remember what was said of them by some that came from the Southward last summer, which makes them backward in Inlisting or manifesting a willingness to Inlist.

Its my opinion we should have began a month ago to Ingage men for another Campain. If the present armys time should be out, and no other secured I fear the Enemy will take advantage thereof. I wish Gen<sup>r</sup>. Frye might be provided for, I think him a good man for the service, and am very sorry he has not been provided for by the Continental Congress before this time.

*Some have said hard things of the officers belonging to this Colony, and despised them, but I think as mean as they have represented them to be, there has been no one action with the enemy, which has not been conducted by an officer of this Colony, except that at Chelsea, which was conducted by Gen<sup>r</sup>. Putnam. [Italics mine.]*

I am this moment informed, that Major Tupper of this Colony and off the army hath seized two vessels at the Vineyard loaded with oyl, Belonging to [Benjamin M.] Holmes, and [John] Coffin in Boston two Tories, and has Carried them into Plymouth, he having been dispatched for that purpose. He now desires to resign his command in the army, and take the command of one of those vessels, when fitted out for a Privateer.

You mentioned the scene is thickning, I hope as that thickens our deliverance approaches. I have no doubt, but we shall finally come off victorious, if we continue persevering. There has not been one action with the enemy, without a signal appearance of Divine Providence in our favour. If so what reason can we have to doubt of success more than when we began.

I should have wrote you before, but was prevented by Indisposition and frequent avocations of a publick nature, and probable you may think I had better have spent by [my] time some other way than in writing the above. I hope you will excuse all the foregoing Inaccuracies and honor me with a line, in the mean time I rest your affectionate friend and humble servant

ARTEMAS WARD.

Honorable John Adams Esqr.

The pith of the evidence lies in Ward's statement that every action with the enemy thus far has been conducted by an officer of this Colony, except that at Chelsea, when Putnam was in command. The statement is found in the fourth paragraph of that part of the letter which is dated October 30, and says inferentially that Putnam did not command on June 17. In the reprint this paragraph has been italicized. No better authority on this question could be given than General Ward, as he was the commander of the Provincial army at the time of the Battle of Bunker Hill, and continued as such until the arrival of General Washington on July 3. The skirmish at Chelsea took place on May 27, three weeks before the action on Bunker Hill.

Interested for various reasons in the town of Groton I am desirous that the record of her soldiers, who took part in the battle, should be correctly made; and to that end with no apology I offer the following facts.

One commissioned officer and ten enlisted men, residents of Groton, were either killed or mortally wounded in the battle. The roll of honor comprises the names of Lieutenant Amaziah Fassett, who fell wounded and died a prisoner in Boston, a short time later, on July 5; Sergeant Benjamin Prescott, eldest son of the Hon. James Prescott, and nephew of Colonel William Prescott, the commander on the American side; and Privates Abraham Blood, Chambers Corey, James Dodge, Peter Fisk, Stephen Foster, Simon Hobart, Jonathan Jenkins, Robert Parker, and Benjamin Woods.

This loss was the largest suffered by any one town in the battle, and shows the patriotic character of the citizens at that period. These soldiers were serving in five different companies of Colonel Prescott's regiment, and their names now appear on the bronze tablets which have been placed near the scene of action by the city of Boston in memory of the brave men who fell in that historic engagement. It is highly probable that Amos Fisk, killed in the battle, was another Groton soldier who fell on that day, but his name does not appear in the list, as there is a trifling doubt connected with the fact. In a newspaper account his Christian name is given as Amasa, which is wrong. The name of David Kemp is given on the tablets, but for reasons stated below has been omitted by me in this paper.

Colonel Prescott, the commander of the American forces, was a native of Groton, and at least three of the Pepperell soldiers who lost their lives in the fight were also natives.

In connection with the names that are given on the tablets set up by the city, there is a singular error worth noting. David Kemp, of Groton, is named as one of the men who was killed in the action, though fortunately he was only captured, and afterward taken to Halifax. By mistake he was reported as dying on September 10, while a prisoner in Boston, and for a long time his family mourned him as dead. It is not recorded when they first heard of his safety, but probably it was many months after the battle.

In "The Boston-Gazette, and Country Journal" (Watertown), July 29, 1776, it is said:

Last Tuesday Evening came to town from Halifax, Lieut. Scott of Peterborough, in New Hampshire Government, who was wounded and taken Prisoner at the memorable Battle of Bunker Hill the 17th of June, 1775, and has been a Prisoner ever since. He informs, That he with 13 others broke Goal about 5 Weeks ago and betook themselves to the Woods where they seperated; that Captain Martindale and his first and second Lieutenants', John Brown Rifleman Leonard Briggs of Ware [Wareham?], and himself arrived at Truro at the head of Cobbecut river, after a travel of 3 days, where they procured a boat and got to the Eastward; that Richard Carpenter formerly Barber in this town, Philip Johnson Peak, David Kemp of Groton, and Corporal Cruse of Virginia, and two others took the road to Windsor where they were apprehended and confined in irons; that Benjamin Willson of Billerica, one of the Bunker Hill Prisoners died lately in goal; and that he left Master James Lovell still confin'd, in high health and spirits.

From the foregoing newspaper account it appears that David Kemp did not die in Boston on September 10, 1775, as is recorded in the Company Return among the Massachusetts Archives (LVI. 70); and furthermore, that he was alive nearly one year after the memorable engagement. The following petition, printed in the Journal of the Massachusetts House of Representatives (page 104), September 13, 1776, gives the exact date of Kemp's escape as well as other interesting facts:

A petition of *David Kemp*, of *Groton*, setting forth, that his son *David Kemp*, jun. a soldier in Capt. *Parker's* company, in Col. *Pres-*

*cot's* regiment, was taken prisoner at the Battle at *Bunker's-Hill*, the 17th *June*, 1775, and carried to *Halifax*, where he remained till the 18th *June* last; that he was not made up in said *Parker's* roll, only to the 17th *June*, therefore praying that his wages to this time may be allowed him.

Read and committed to Capt. *Kimball*, Mr. *Ingals* and Mr. *White*.

In connection with the facts here given it may be interesting to note the action of the General Court, taken nine months after the battle. It is printed in the Journal of the Massachusetts House of Representatives (page 23), and shows the accuracy — or the inaccuracy perhaps — of an official publication, though in this case there were good grounds for the statement.

Thursday, March 21, 1776 (Afternoon).

An Account of *David Kemp*, for Loss of Cloaths and other Articles, sustained by his late Son *David Kemp*, taken in the Engagement on *Bunker's-Hill*, on the seventeenth of *June* last, and since dead.

Among my earliest recollections of boyhood was seeing a few old men who were known as "pensioners," but what that word meant, or why it was applied to them, I was wholly in the dark. Later I learned that they had served in the Revolution. For the most part such persons wore low-crowned hats with broad brims, like other old men of that period. Some of them, I remember, wore cues, but as their hair was not over-abundant, the crinal appendages were both short and thin. These recollections carry me back to the men who took an active part in the Revolution, though then they were not much older than those who served in the War of the Rebellion are now. To some of us the men who served in the campaigns of 1861-65 do not seem old, though they are no longer young. Doubtless the boys of to-day look upon these later veterans with very much the same feeling as we looked upon those of a former generation. To me the events connected with the Rebellion were burned so deeply into my very being and have left such clear outlines on my memory that they seem rather recent. I could readily believe that the first Battle of Bull Run was fought long after the Great Fire of Boston which took place thirty-seven years ago this very week.

Mr. NORCROSS communicated the following note on the portrait in the Society's Cabinet long supposed to be that of the Rev. John Wilson, minister of the First Church in Boston, written by Frank E. Bradish, to accompany a recent paper by him read before the Bostonian Society :

The portrait in the possession of the Massachusetts Historical Society has been many times reproduced by engraving as the likeness of Rev. John Wilson, but its authenticity has long been questioned. It was given to the Society, according to their records, by Henry Bromfield, February 1, 1798. In September, 1867 (*Proceedings*, x., page 41), Doctor John Appleton stated his reasons for thinking that this was not a likeness of Rev. John Wilson; first, because the work bears the characteristics of a period later than Wilson's death; secondly, because the costume is that of a later period; thirdly, because it seemed to have been painted in Europe; fourthly, because Cotton Mather, who had been baptized by John Wilson, was on intimate terms with Edward Rawson, who was supposed to be the first owner of this portrait, and Mather less than thirty years after Wilson's death recites the story, probably told him by Rawson, of Wilson's emphatic refusal to allow his picture to be drawn, even at the urgent request of Rawson himself. John Wilson the younger was one of the appraisers of Rawson's estate, and we may assume that if he had found a portrait of his father there, it would appear in the inventory.

In December, 1880 (*Proceedings*, xviii., page 264), Mr. Winthrop read to the Society a letter written to him by President Quincy, May 19, 1857, which had escaped the files of the Society and had been apparently overlooked by Doctor Appleton. In this letter Mr. Quincy states that this "portrait of the Rev. John Wilson, the first Clergyman of Boston, now in the possession of the Massachusetts Historical Society," had been presented to the Society at his instance by Hon. William Phillips, on the death of Miss Elizabeth Bromfield in 1814. "I deem it proper, therefore, to state to you, as President of that institution, that the portrait in question was carefully preserved from the earliest times, among his descendants in the Bromfield family, certainly for more than a century." Mr. Quincy remarks that Edward Bromfield married, in 1683, Mary, daughter of Rev. Samuel Danforth, and grand-daughter of Rev. John Wilson, and he adds that he has stated these facts, "that there may be no longer any doubt concerning the authenticity of that portrait."

Rev. John Wilson died in 1667, which was eighty-four years before the birth of his great-great-great-grandson, Henry Bromfield, the donor of the picture; seventy-two years before the birth of Henry's sister, Elizabeth Bromfield, of whom Mr. Quincy speaks; and one hundred

and five years before the birth of President Quincy, who was himself John Wilson's great-great-great-grandson; to all three of them a picture much later than John Wilson's time would seem ancient, and a very slender thread of tradition in their youth would grow into a strong chain of evidence in their old age.

The public records, however, furnish even a more solid basis for Doctor Appleton's doubts. The inventory<sup>1</sup> of the estate of Edward Bromfield, the emigrant, was taken February 11, 1734-35 and one of the items is "Dr. Owen's picture," valued at seventy shillings; no other portrait is inventoried.

Dr. John Owen was a distinguished theologian, whose personal appearance was familiar to all well-read Puritans of that time, but his fame had not entirely overshadowed in Boston that of Rev. John Wilson, whose incomparable services to the founders of New England were still fresh in the memories of their children. Had Mr. Bromfield possessed a portrait of Mr. Wilson, his executor would not have failed to exhibit it to the appraisers, and they would certainly have named it in the inventory with the likeness of the great Oxonian; that it does not appear in that list proves that Edward Bromfield did not own such a portrait at the time of his death. Whether the picture owned by the Massachusetts Historical Society is a likeness of Dr. Owen is not germane to the subject of this paper, and is a question requiring extended and careful investigation.

Mr. HOWE, in preparing his "*Life and Letters of George Bancroft*" from the collection of manuscripts now deposited with the Society, was struck by the value of the papers here printed, but did not consider them appropriate to the biography. On his behalf Mr. Ford brought them before the Society. They relate to two interesting events, the so-called Mecklenburg Declaration of Independence, of May 20, 1775, and the annexation of Texas.

Negative evidence is often even stronger than positive evidence in historical treatment. Outside of North Carolina, and even outside of Mecklenburg County, North Carolina, the general consensus of opinion is that there was no declaration other than that of May 31, 1775. Andrew Stevenson, when minister to the Court of St. James, saw in the British Archives the documents and despatches sent from North Carolina at the time, and found no such Declaration as is claimed by its advocates. Ten years later President Polk asks Bancroft, then minister to England, to make an examination of the

<sup>1</sup> Suffolk Probate.

same documents. Not only was Polk keenly interested in the subject for personal as well as historical reasons, but Bancroft, who owed so much to Polk in his public career, had every reason to gratify his wishes and establish a fact that would so greatly have redounded to the reputation of the Polk family. It is unfortunate that Bancroft's replies to Polk have not been traced; but it is known that he found nothing to support the claims of the Declaration of May 20, 1775.

The second correspondence relates to Polk's attitude on the annexation of Texas. A similar inquiry was made of Buchanan, who was Secretary of State in Polk's cabinet, and the reply is printed in "Works of James Buchanan," VIII. 240. The same question was sent to other members of the cabinet, but the answers are not to be found.

#### POLK TO BANCROFT.

WASHINGTON CITY, June 17, 1848.

MY DEAR SIR,—The accompanying papers and printed volume, have been transmitted to me, by *Ex. Governor Swain*<sup>1</sup> of N. Carolina, now President of the University of that State, with a request that I would forward them to you. *Mr. Swain* has been for some time engaged in making researches into the early history of the two Carolinas. The Declaration of Independence by the people of Mecklenburg on the 20th of May, 1775, and their Resolves passed on the 31st of the same month are interesting events. *Mr. Swain* whom I saw a year ago, when on a visit to the University of N. C., thinks it more than probable that the Reports of the Colonial Governor (*Martin*<sup>2</sup>) to this Government, may be found among the archives of the British Government. If he is right in this, and you could obtain copies, or the substance of these Reports, they would be very interesting, especially to the people of the two Carolinas.

I have not written to you for many months, first because I had nothing of interest to communicate, and secondly, because there has been no relaxation of my labours since you left. Every moment of my time is occupied and I am compelled to neglect almost entirely, my correspondence with my friends.

It may I think be regarded as certain that there is peace with Mexico. A despatch received from *Messrs Sevier and Clifford*,<sup>3</sup> under date of

<sup>1</sup> David Lowrey Swain.

<sup>2</sup> Josiah Martin, the last of the royal governors of the Colony, who served 1771-1775.

<sup>3</sup> Ambrose Hundley Sevier and Nathan Clifford, commissioners to Mexico to exchange ratifications of treaty of peace.

the 25th ultimo at Queretaro, announces the fact of the ratification of the Treaty by both branches of the Mexican Congress. All that remained to be done, was the formal exchange of ratifications, which would probably take place in two or three days from the date of their despatch.

The Presidential contest promises to be a violent one. Factions of each party are not satisfied with their respective nominees. The New York *Barnburners*<sup>1</sup> are producing great embarrassment in the Democratic party. They are highly excited and I fear irreconcilable. The great probability is that their course will insure the vote of N. York to the Whig Candidate. I am however confident that the Democracy can elect *Genl. Cass* without the vote of New York. I hope they may be able to do so.

I am rejoiced that I shall soon retire from the incessant labours, cares and anxieties of my office, which as you know have been very great during my whole term.<sup>2</sup>

With the respectful salutations of *Mrs. Polk* and myself to *Mrs. Bancroft*: I am, my dear Sir, Your friend etc. etc.

JAMES K. POLK.

P. S. As Mecklenburg N. C. is my native County, I take a lively interest in all that concerns the early history of that part of N. C. Yours &c.

J. K. P.

#### POLK TO BANCROFT.

Private and Unofficial.

WASHINGTON CITY, Sept. 15th, 1848.

MY DEAR SIR,—I wrote a long letter to you, a few days ago, and hope to receive your answer as early as you may find it convenient to give it. I was gratified to learn that you had succeeded in finding in the Brittish Archives, evidence fully confirming the fact of the Declaration of Independence, made by the people of Mecklenburg, and the movements for liberty in that part of North Carolina, as early as May, 1775. The authenticity of these bold and patriotic proceedings, though long since established by satisfactory proofs, had still been doubted by some. The fact which you state that "Governor Sir James Wright of Georgia, was the first to send from America a Copy of the Mecklenburg Resolves" and that this "copy is still in its place," is a very important one. I must request the favour of you, to procure for me a copy of the Resolves, and especially a copy of the official communication of the Governor, made to his Government in transmitting them. You state that "connected with the Mecklenburg Resolves, are two or three

<sup>1</sup> The Van Buren wing, which ran an independent ticket, in order to defeat Lewis Cass.

<sup>2</sup> Buchanan asserted that in the four years of office Polk became an old man, and was killed by its anxieties.—Buchanan, "Works," VIII. 453, 458.

little passages in letters and journals" of which you will send me copies, if I desire them. If it shall not put you to too much inconvenience to procure them, I shall be gratified to receive them, and also to receive a synopsis of the proceedings of the "Regulators," to which you refer.<sup>1</sup> Being myself a native of Mecklenburg, and many of my ancestors having taken an active part in these Revolutionary proceedings, I take a peculiar interest in all that relates to them.

I am much gratified at the assurance you give me, in your letter of the 5th ultimo, of the "great advancement which the American name, has in the last three years made in the respect of all Europe, and in the affections of all lovers of free Government." It has so happened that during my administration a succession of great and important public questions, foreign and domestic, have arisen, involving high responsibilities, great labour, and constant anxiety and vigilance. If I have been so fortunate, as to be reasonably successful in their management, I can only attribute that success, to an honest purpose, a strict adherence to principle which has ever been my guide, and to the patriotic support which I have received from the people. If I can close my administration, leaving the country prosperous, the measure of my ambition will be full. You are right in your observation, that all the old issues which divided the political parties of the Country in 1840 and 1844, have been virtually settled. The party opposed to the Democratic policy upon these issues, manifest an unwillingness further to agitate them, or to resist the settlement of them which has been made. The only remaining subject giving rise to any considerable excitement and division of opinion is that to which you allude in your letter, and relates to the organization of Governments in the territories recently acquired from Mexico; and this would be readily settled (and I hope will be during my time) were it not for the agitation of the delicate and distracting question of slavery. Much excitement existed in Congress, upon this subject, during the last weeks of the late Session. An act was at length passed, providing a Territorial Government for Oregon, and I deeply regret that Governments, based on principles of concession and compromise on the slavery question, had not also been established over New Mexico and California. Had this been done, the agitation of the Slavery question, so far as practical measures are concerned, would have ceased. In view of the excitement which existed, threatening to array the country into geographical parties, which could not fail to destroy the harmony, and might endanger the existence of the Union itself, I felt it to be proper to accompany the announcement of my approval and signature of the Oregon Bill, with the Message

<sup>1</sup> The story of the "Regulators of North Carolina (1765-1771)" is very fully told by John Spencer Bassett in the American Historical Association's report for the year 1894, 141.

which you have doubtless seen.<sup>1</sup> In that Message the reasons for yielding my official sanction were succinctly given. The question of difficulty which was involved was not an original one, arising for the first time. Had it been, my opinion and my action might have been different. But it was a question which had been twice adjusted by my predecessors, upon principles of concession and compromise, between the North and the South,—once in the case of *Missouri*, and again in the case of *Texas*, and all sections and all parties had acquiesced in the Compromise for more than a quarter of a century. It would have been a momentous responsibility, and one which might have involved the integrity of the Union itself, to have disturbed this compromise by an Executive veto. My Message, at the same time, that it expresses my well considered convictions of duty, under the circumstances, which existed; it was hoped would tend to allay the excitement in the different sections of the Union. I am flattered with the belief, that it has to some extent, at least, produced that effect. Before my official action on the Oregon Bill was known, I was strongly urged to with-hold from it my sanction. A Southern convention, I was informed, was openly spoken of by Members of Congress. I gave my approval to the Bill, and protested against such a Convention, as calculated to do no possible good, but on the contrary to widen the breach between the North and the South, upon a question which I believed and still believe ought to have been, and can still be, settled by a satisfactory compromise. Since the appearance of the message I have heard nothing further of the project of a Southern Convention. I have now, reasonable ground to hope, that the question may be settled at the next Session of Congress, by extending the *Missouri* and *Texas* compromise line west to the Pacific. If this compromise shall not be adopted, the subject may be referred to the Judiciary, as was proposed by a Bill passed by the Senate, or some other compromise may be agreed upon, which if not entirely satisfactory to all sections, will be acquiesced in by the country. When the Presidential Election shall be over, I have great confidence that the question can be adjusted, and from all I hear I think it will be, at the next Session.<sup>2</sup> It cannot I think be doubted that some of the leading men of the Whig party, North and South, preferred to have no settlement of the Slavery question at the late Session of Congress, but desired to keep it an open issue, with a view to political agitation, calculating upon its effect upon the Presidential Election. The establishment of a Territorial Government over Oregon has deprived them to that extent of the wicked use, which they may have designed to make of so delicate and dangerous a question.

<sup>1</sup> Message of August 14, 1848, in "Messages and Papers of the Presidents," IV. 606.

<sup>2</sup> The compromise measure of 1850 pretended to determine the controversy.

There is less excitement upon the Presidential Election than is usual. There is every prospect at present of *Genl. Cass's* Election. Indeed I consider this result as almost certain. The whole contest is between *Genl. Cass* and *Genl. Taylor*, the regular nominees of their respective parties. *Mr. Van-Buren*, it is true, is the Candidate of the *Barnburners* and *Abolitionists*, and received their nomination at their Convention at *Buffalo*, but he stands I think, no possible chance of carrying a single Electoral vote, out of New York, and every day diminishes his chances of success, even in that State. Three distinct tickets for Electors, and possibly a fourth (for *Clay*) will be run in New York, and a plurality will decide the vote of the State. I deplore the great error, which *Mr. Van-Buren* has committed, in suffering himself to occupy his present false position.

With the kind salutations of *Mrs. Polk* and myself to *Mrs. Bancroft*. I remain Very faithfully Your friend

JAMES K. POLK.

POLK TO BANCROFT.

Private.

WASHINGTON CITY, Jany 22, 1849.

MY DEAR SIR,— Before I received your letter of the 29th ultimo, I had written to you and had anticipated the request you make, that I would give you my advice, whether you had better resign on the 4th of March, or await your recal, should it be the pleasure of the President Elect to recal you. It was, and is, my decided opinion that you should not voluntarily relinquish your mission. In my letter I assigned the reasons for this opinion. I may add that you have been eminently successful in all the negotiations intrusted to you, and the whole country, of all parties, are abundantly satisfied that an abler and more faithful Representative could not succeed you. Your *postal Treaty* and your successful efforts to procure the release of American citizens imprisoned in Ireland, are very popular throughout the country, and your recal could be attributed to no other cause, than that you belong to a different political party, than that of the President elect. That the next Administration will be proscriptive, notwithstanding the protestations to the contrary before the election I do not doubt; still I doubt whether you will be disturbed, at all events during the early part of the next term. Should I be mistaken in this, your recal could do you no possible injury.

I thank you for the *Mecklenburg papers* which you sent to me. *Gov. Swain*, President of the University of N. Carolina, I see communicated to the Governor of that State, a letter from you and a portion (perhaps all) the papers which you sent to me. The Governor laid them before the Legislature and your letter to *Mr. Swain* has been published.

Your agency in bringing these papers to light has rendered you very popular in N. Carolina and indeed in all the Southern States. The *main paper* connected with the proceedings of the people of Mecklenburg you have not given. It is the formal *Declaration of Independence itself*, which was adopted on the 20th May, 1775. This paper was forwarded to the General Congress at Philadelphia, by *Capt. Jack*, a person employed specially to bear it. *Governor Martin* in his despatch to the Home Government, which you have sent to me refers to it. In his Proclamation issued, I believe, in the autumn of 1775, when the Governor was on board the ship to sail for England, denounces it as treasonable. The Resolves which you have sent to me, were passed a few weeks after the formal *Declaration of Independence* was made. This Declaration was doubtless transmitted or carried in person to England by Governor Martin. If it is to be found in the Brittish Archives, it will be conclusive evidence of the fact of such Declaration having been made, a fact which *Mr Jefferson* more than doubted. I dislike to trouble you further on the subject, but must request that you will cause a further search to be made for the *Declaration of May 20th, 1775*, which is the main-paper and the leading proceeding of the patriotic people of Mecklenburg. To aid you in any further researches you may have it in your power to make, I inclose you extracts of two letters, which I have received on the subject from *William H. Winder Esqr.* of Philadelphia. *Mr Winder* is the son of the late *Genl. Winder* of Baltimore, and that you may understand the reason of the interest he takes in the matter, I inform you that his mother was a *Polk*, descended from the same stock with myself. He is preparing a genealogical Tree of the *Polk* family, and as several of its members participated actively in the proceedings in Mecklenburg, he desires to show their connection with the interesting events which took place in Mecklenburg. To me the subject is peculiarly interesting, for though the vile slander which was heaped upon the memory of my Grandfather, in the Presidential canvass of 1844, has been sufficiently refuted by other testimony, yet any thing which establishes the authenticity of the Mecklenburg proceedings, will tend still more clearly to put to shame the revilers of his memory. I have now in my possession a printed copy of the Journal of "The Provincial Congress" of S. C., held at Charles Town in June, 1775, at which *Ezekiel Polk* (my Grandfather) was a member. By that Congress he was appointed a *Captain* and I have in my possession his original Commission on parchment, under which he served in the Revolutionary War. He represented a District in "The Provincial Congress" of S. C. adjoining Mecklenburg, and was present, at Charlotte, and was among those who adopted "the Declaration of Independence," on the 20th of May, 1775. The copy of the Journal which I have, was sent to me by an aged man in

N. Carolina, since I have been President, who stated to me in a letter which accompanied it, that he had found it among the old papers of his father, who was also a member of the Provincial Congress. He sent it to me as containing a conclusive refutation of the slander which the recklessness of party had invented against the memory of *Ezekiel Polk*, for the purpose of injuriously affecting his Grandson, when a candidate for the Presidency. The copy of the Journal which I have, is a small printed pamphlet, and is the only one I have ever heard of. As it is probable that but few copies were printed, it may be the only copy now to be found. It is a curious as well as a valuable document. It may possibly be of use to you, in the further preparation of your history, and if so, I will furnish you with the original or an exact copy of it, should you desire it.

With kind regards to Mrs. Bancroft. I am Truly yr friend,

JAMES K. POLK.

[Enclosures.]

WILLIAM H. WINDER TO POLK.

23 Sep., 1848.

. . . I have given some little attention to the pamphlet received by me from Mr Hill of Raleigh, being the one printed by authority of the Legislature of North Carolina.<sup>1</sup> My attention was called to this matter some years since and the result was that the testimony was not conclusive and satisfactory. And this second perusal has not removed the disappointment and doubt. On this account I very greatly rejoice that Mr. Bancroft has obtained access to the *original documents*, which I am of opinion will prove to differ from those in this pamphlet. . . .

Again Gov Martin's proclamation issued from on board ship to which he had fled, denounced the proceedings of the convention in the strongest terms, thus giving official evidence of the existence and proceedings of the Convention. In that proclamation he bitterly denounced some letters written, by the members from North Carolina in the National Congress, which endorsed these proceedings and recommended them to all patriotic Citizens. The names of those members were Hooper, Hughes and Caswell.<sup>2</sup> Their letters were published in the Cape Fear Mercury of the 14th July 1775. This paper with other documents Gov. Martin took, with him to England. As Mr Bancroft has been successful in getting access to the American archives in England, it might be very desirable to have him avail himself of the indulgence, to obtain the Cape Fear Mercury, or authenticated copies of such portions as have a bearing upon our National History, as another Ministry might

<sup>1</sup> "The Declaration of Independence by the Citizens of Mecklenburg County. . . . Published by the Governor," Raleigh, 1831.

<sup>2</sup> William Hooper, Joseph Hewes and Richard Caswell, all members of the Continental Congress from North Carolina.

not afford an opportunity. You are probably aware that the Hon John Forsythe of Georgia took a warm interest in the matter, and sought access to British Archives of American History, and that his efforts were unsuccessful.

Col. Thos. and Ezekiel Polk, one or both, were members of the Congress which framed the test oath of Loyalty.

WILLIAM H. WINDER TO POLK.

11 Jany, 1849.

SIR,— You were kind enough to do me the honor to say that when you should receive from Mr. Bancroft a copy of the original account of the proceedings of the Mecklenburg Convention, you would allow me to see them, and to avail myself of them to make a complete history of that important and contested event, so interesting to our (the Polk) family, several members of which were among the earliest movers and most active participants in that early patriotic movement. So long a time has elapsed since Mr Bancroft promised to forward these documents, that I fear important national matters of more pressing moment, may have caused this matter wholly to escape his recollection. The short period which will intervene between this and your retirement to that private peace which you so covet, that I fear the matter may be wholly unattended to. These together with the fact that Mr Forsythe had in vain sought access to the American Archives in England have induced me to bring this subject again to your mind.

I pray you Sir pardon me for the liberty I am taking, and to which I am emboldened by a desire to place incontrovertibly upon all future historic annals, the true history of a most interesting event, in which the honor and distinction of several members of our family will be made clearly to appear.

While I am trespassing upon the courtesy which heretofore has received favorably similar suggestions, I will go so far as to request that if you should have occasion to remind Mr Bancroft of your wishes on this subject, that you would include in your instructions, such numbers of the Cape Fear Recorder<sup>1</sup> as he can procure, containing an account of the Convention, the letters of the Delegates to the National Congress, and particularly the number containing the proclamation of the Governor of North Carolina. All of these will be found among the archives in London, and are very important in making a full and complete history, such as I purpose to write on receiving the documents and papers referred to above.

In my last respects to you I gave some details of matters connected with not only the Mecklenburg Convention, but the particular information you sought as to how I ascertained that Ezekiel Polk was Capt. of the Whig Rangers. . . .

<sup>1</sup> Probably an error for "Mercury."

## POLK TO BANCROFT.

Private and unofficial.

WASHINGTON CITY, Sept. 9th, 1848.

DEAR SIR,—I invite your attention to two publications, which made their appearance in the *New York Evening Post* of the 28th of July, and were re-published in the *National Intelligencer* of Washington on the 1<sup>st</sup> of August last, the one bearing the signature of *Benjamin Tappan*, and the other that of *Francis P. Blair*. A printed copy of these publications, cut from the *National Intelligencer*, is herewith enclosed.

A few days after my arrival in Washington in February, 1845, I invited you to accept a place in my Cabinet. After you had intimated a willingness to accept the position tendered to you, I was upon terms of confidential and unreserved intercourse with you. That you might be fully informed in advance, of my views and the principles on which my administration would be conducted, I read to you the Inaugural Address which I had prepared in Tennessee, and which I afterwards delivered to my fellow-citizens on the 4<sup>th</sup> of March, 1845,<sup>1</sup> and conferred freely with you in relation to public affairs. No opinions which I entertained upon any public subject, about which we may have conversed were withheld from you. As it may become proper that I should at some future day, notice the publications of *Messrs. Tappan & Blair*, I desire that you will furnish me with a statement, of any opinions, views or acts of mine, relating to the subject of the annexation of Texas to the United States, both before and after my Inauguration as President, which may have come to your knowledge.

I have not the slightest recollection of ever having held a conversation with either *Mr. Tappan* or *Mr. Blair* on the subject of the annexation of Texas. If I did, it is certain that I was wholly misunderstood. When I arrived in Washington on the 13<sup>th</sup> of February, 1845, the subject of the annexation of Texas was pending before Congress. That was one of the main issues, upon which I had been elected President of the United States. I was anxious that Congress should at its then Session, pass some measure for annexation, if Texas would consent. I believed that unless some measure with that object, was passed at that Session, there was danger that the "golden moment," for securing Texas as a part of our Union, might pass, and that fine territory be lost forever.

My opinions on the subject were freely and publicly expressed in the Hotel where I was, to all who chose to converse with me on the subject. I was, as you know, almost constantly surrounded with company from the day of my arrival in Washington until the day of my Inauguration. I had no opportunity to examine, and did not examine the particular form of the different propositions which were before Congress. I learned generally in conversations with several persons,

<sup>1</sup> "Messages and Papers of the Presidents," iv. 373.

and I think it likely among others with yourself, that there was some difficulty in reconciling the two Houses of Congress, or in procuring their concurrence upon *any one proposition*, though there was believed to be a majority of each House in favour of the measure *in some form*. I remember that I entertained and expressed the opinion and the hope, that if the measure could not pass in *one form*, it was better to pass it in *any form*, than not to pass it at all. I may have said in conversation and probably did, for such was my opinion, that if the *form* of annexation by negotiation, through the agency of commissioners, which as I was informed had been suggested, should be the one adopted by Congress, or if the measure should pass in the alternative, and that *form* should be selected by the President, that then the ablest men in the country should be appointed the Commissioners. But that I ever decided in advance, and before I had examined and compared the different propositions which were spoken of, in favour of the *form* by negotiation, in preference to that of the House, or authorized such a purpose to be communicated to Senators, is wholly inconceivable under the circumstances which existed. If I was so understood by any one with whom I may have conversed, I was misunderstood. This however is stated in the publications of *Messrs. Tappan & Blair*. For what purpose and with what object it is stated at this late day (after the lapse of nearly three and an half years,) I leave to others to determine. I know how difficult it is to prove a negative. Fortunately circumstances exist in this case, which go far to establish the error of their statements. One of these circumstances is this. The Resolutions for the Annexation of Texas, were approved by *Mr. Tyler* on the 1<sup>st</sup> of March, 1845. On that or the next day *Mr. Calhoun*, then Secretary of State, called and conversed with me in relation to the election proper to be made, as between the alternative propositions embraced in the Resolutions, informing me that *Mr. Tyler* was deliberating on the subject. I have since learned that *Mr. Calhoun* reported to *Mr. Tyler* sitting in Cabinet Council, the result of his interview with me. It was in substance that I had informed him (*Mr. Calhoun*) that I had been so much occupied with Company and other engagements, that I had not even read the Resolutions which had passed Congress, and could therefore give no opinion upon the subject, and that until I had entered upon my duties as President, and had my own Cabinet advisers around me, I could not undertake to decide on the subject, and that I left it to *Mr. Tyler* to decide for himself, what action, if any, he deemed it proper to take on the subject. *Mr. Tyler* made the election of the alternative embraced in the House propositions, as they were called, and dispatched a special messenger, bearing his decision and instructions to our Chargé d'Affaires to Texas, before he retired from office. On the 6<sup>th</sup> of March, *Genl. Almonte* the Mexican Minister made his communication, de-

manding his passports.<sup>1</sup> It was not until the 10<sup>th</sup> of March that the subject was considered and finally decided on by me in my Cabinet. When the subject was considered, I had before me the Resolutions of Congress, the Election of alternatives which had been made by *Mr. Tyler* and his instructions given to our Minister. The whole subject was fully examined and carefully considered in all its bearings. The confirmation of your nomination as Secretary of the Navy, was delayed for some days by the Senate, but in anticipation of it I had invited you to attend the Cabinet meetings, and my impression is, that you were present on the occasion referred to. Your memory will doubtless enable you to determine how this was. The Cabinet were unanimously of opinion that *Mr. Tyler's* election of alternatives should not be reversed, but should be confirmed. It was so confirmed and with my full assent and approval, and accordingly Mr. *Buchanan* addressed a despatch to that effect to our Chargé d'Affaires to Texas.<sup>2</sup> During the whole consideration of the subject, not an intimation was given by me of a preference for the alternative *form* of annexation by negotiation, or that I was embarrassed by any such pledge as that now attributed to me by *Messrs. Tappan and Blair*. It is impossible that all this could have occurred, if I had understood myself as having given any such pledge.

Another circumstance which goes far to negative the allegation is this. The Senate continued in Executive Session until the 19th or 20th of March, when they adjourned. If I had decided to elect the alternative of appointing Commissioners to negotiate, it would have been necessary to nominate these commissioners to the Senate for the confirmation of that body, before its adjournment. No such nomination was made and therefore every Senator and the public, must have known that the alternative of negotiation by the appointment of Commissioners had not been adopted, and yet there was no complaint from any Senator or from any other quarter, that I had acted in bad faith or violated any pledge.

Another circumstance is this: Texas accepted the overture which was made to her, and in my annual Message of December, 1845,<sup>3</sup> I communicated to Congress all that had been done by *Mr. Tyler* and myself, and accompanied my Message with all the correspondence on the subject, which was published. *Messrs. Tappan and Blair* were then silent. Texas was shortly afterwards admitted into the Union as a State. The Senators referred to by *Messrs. Tappan & Blair* made no charge or allegation that they had been deceived by pledges, as to the *form* of effecting her annexation which would be adopted. They made no opposition to her admission as a State, and they continued long

<sup>1</sup> Juan N. Almonte.

<sup>2</sup> Polk probably has in mind the instructions to Donelson.

<sup>3</sup> "Messages and Papers of the Presidents," iv. 385.

after that time to support my administration, including the declaration and prosecution of the War with Mexico.

I might add other facts and cogent circumstances, but it is unnecessary, and I will not weary you, by a recital of them. You had my full confidence at the time referred to, and I would have been as likely to converse with you without the least reserve, as with any other person. Neither *Messrs. Tappan* or *Blair* possessed my confidence. It may become necessary for me to vindicate myself before the public. At all events I desire to be prepared to do so. Were this the only object I do not know that I should trouble you. But a higher motive impels me to vindicate my official course in regard to the annexation of Texas. That was an event of the highest National importance conceived and consummated, with pure and patriotic motives, and it is due to the truth of history, that the action, and the motive of action of the public functionaries intrusted with its management should be fully known. With this view I address you this letter. I wish in your answer that you should be full, stating all you may remember of my views, or of any conversations you may have held with me on the subject of the annexation of Texas. To protect myself from misconception or misrepresentation and to vindicate the truth of history is all that I desire. I will request like statements from the other members of the Cabinet, of what they know or remember. I will not use them before the excitement of the pending Presidential election has passed, and not then unless, it shall appear to be proper and necessary.

I will add that I was much surprised on seeing the publications of *Messrs. Tappan* and *Blair*. I had not the slightest intimation of an intention to make them, until they appeared in the New York Evening Post. I was the more surprised from the fact, that *Mr. Blair* had previously expressed his approbation of all the leading measures of my administration, which of course embraced the first, and among the most important of these measures, the annexation of Texas, which had been consummated by the policy which I had pursued. He once expressed this approbation to me, in strong terms, in your presence. As *Mr. Blair* had been superceded by *Mr. Ritchie*, in conducting the leading Democratic paper at Washington, and as I had reason to believe he had been dissatisfied at this circumstance, I regarded the voluntary opinion which he expressed, as magnanimous, and I was gratified to have it. It made so deep an impression on my mind, that on the same evening, I made a note of it. It may not have made so deep an impression on you, and you may not remember it. I will recal to your recollection the occasion on which it was made. On the afternoon of the 15th of August, 1846, I took a ride with you in your carriage. We drove to *Mr. Blair's* house, some five or six miles in the country. We found him alone, his family being absent from

home. He received us very cordially and was very friendly. During our stay of an hour he took occasion to remark to me, that I had been universally successful in my administration, and that he approved all my leading measures. In speaking of the tariff he entirely approved the act which had recently passed, and said he had been more anxious for its passage than some of the members of Congress who had voted for it. He said he had argued with *Senator Haywood*<sup>1</sup> and had endeavoured to convince him that he ought to vote for it, and that he had dissuaded him from resigning his seat in the Senate. He made other remarks which are not material. You will of course remember our ride to his house. If you remember his expression of approbation of the measures of my administration, and you see no objection to it, I desire that you will state your recollection of it, in your answer to this letter.

I have written so long a letter that I will not trouble you with much that I might say in relation to public affairs, but will postpone this to some future period.

I have received your letter in answer to mine enclosing to you a communication from *Gov. Swain* President of the University of N. Carolina, and I am glad that you have been able to find in the Brittish archives, some evidence confirmatory of the fact of the Mecklenburg Declaration of Independence in May, 1775. I will write you on this subject soon. I am very faithfully, Your friend & obd. Servt.

JAMES K. POLK.

P. S. I might have said much more than I have done, upon the subject of Texas annexation, and the reasons which influenced my action upon it. I will only make one additional remark. I think the wisdom of the choice of alternatives which was made, must long since have been manifest to the whole world. If the other alternative had been chosen, I think there is abundant evidence to prove that Texas would probably have been lost to the Union. If negotiations had been opened by Commissioners, much delay would necessarily have taken place, giving ample opportunity to *Brittish* and *French* intrigue to have seriously embarrassed, if not defeated annexation. It was not until after I had entered upon my duties as President, that I had an opportunity deliberately to consider of the two propositions and to decide between them. When I decided, I had Mr. Tyler's instructions and Mr. Almonte's letter before me, and the dangers of delay by protracted negotiations, had that mode been selected, were apparent. I acted upon my own best judgment, and in conformity with the unanimous advice of my Cabinet, and the result has proved that I was right.  
Yrs. &c.

J. K. P.

<sup>1</sup> William Henry Haywood, of North Carolina.

[Enclosures.]

TAPPAN TO EVENING POST.

STEUBENVILLE, July 21, 1848.

*To the Editor of the Evening Post:*

DEAR SIR,—Since the admission of Texas into the Union was consummated, I have thought, with you, that my vote on that occasion required explanation. I was in favor of receiving that State into the Union as soon as it could be done on fair and just terms, and with the consent of Mexico ; and I believed, from all I could learn, that this might be accomplished at less expense than it would cost to wage a war of one year's duration for obtaining it. So disposed, I had not only voted against Mr.-Tyler's treaty of annexation, because it was exceptionable in its terms, but, in violation of a rule of the Senate, from an imperative sense of public duty, had published it, and the correspondence with which it was accompanied, because *it appeared to me that the whole affair afforded evidence of a daring conspiracy to divide the Union, by arraying the free and slave States against each other*; evidence which considerations entirely paramount to all Senatorial formulas required to be immediately divulged.<sup>1</sup>

The inquiry is a very natural one—how men who desired the admission of Texas and voted against the treaty of annexation, could afterwards vote for the resolution brought into the House of Representatives by Mr. Milton Brown,<sup>2</sup> which was more exceptionable in its terms than the treaty. Now that the war with Mexico is ended, and the public interest cannot be injured by answering this inquiry, I give you the following statement, premising that the public history of this transaction is in the Congressional Globe, vol. 14, page 358 to 363, and the Congressional Globe of February 24th, 1847.<sup>3</sup>

When the “joint resolution declaring the terms on which Congress will admit Texas into the Union as a State,” was before the Senate, it was soon found that a number of the Democratic members who were favorable to the admission of Texas would vote against that resolution. I was one of them. In this stage of the matter it was proposed that, *instead of rejecting the House resolution, we should amend it by adding, as an alternative proposition, the substance of Mr. Benton's bill to obtain Texas by negotiation.* I had strong objections to this plan, for I did not see the necessity or propriety of passing the House resolution either with or without the proposed amendments, but it was urged that the

<sup>1</sup> Tappan apologized to the Senate, and was severely censured.—“Senate Executive Journals,” vi. 268.

<sup>2</sup> Representative from Tennessee.

<sup>3</sup> The first reference is to the discussion in the Senate on February 27, 1845, both afternoon and evening, in which was adopted the joint resolution determining the terms on which Congress would admit Texas into the Union as a State. The second reference is to speeches made by Senators Benton and Calhoun.

session was so near its close that the measure would be defeated if we substituted Mr. Benton's plan for the other, whereas if we made it an additional article it would readily pass the House in that form. This reasoning did not satisfy me, but finding that my friends were all satisfied with such proposed arrangement, I acceded to it—provided that I could have satisfactory assurance that the plan proposed in such amendment would be the only one used and submitted to Texas.

*Mr. Polk was in the city; it was understood that he was very anxious that Congress should act on the subject before he came into office; it was also understood that the proposition to amend the House resolution originated with Mr. Polk.* It had been suggested that, if we did so amend the resolution, Mr. Calhoun would send off the House resolution to Texas, and so endeavor to forestall the action of Mr. Polk; but Mr. McDuffie,<sup>1</sup> his friend, having met this suggestion by the declaration that he would not have the "audacity" to do such a thing, it was no more thought of. One difficulty remained, and that was the danger of putting it into the power of Mr. Polk to submit the House resolution to Texas. We understood, indeed, that he intended to submit the Senate proposition to that Government; but, without being satisfied that he would do this, I would not vote for the resolution, and it was well ascertained that, without my vote, it could not pass. Mr. Haywood, who had voted with me, and was opposed to the House resolution, undertook to converse with Mr. Polk on the subject, and did so. He afterwards told me that he *was authorized by Mr. Polk to say to myself and other Senators that, if we could pass the resolution with the amendment proposed to be made, he would not use the House resolution, but would submit the Senate amendment as the sole proposition to Texas.* Upon this assurance I voted for the amendment moved by Mr. Walker,<sup>2</sup> containing the substance of Mr. Benton's bill, and voted for the resolution as it now stands on the statute book.

It is matter of history that Mr. Calhoun did have the "audacity" to send off a special messenger with the House resolution to Texas on the 3d of March, a few minutes before he went out of office; and that *Mr. Polk adopted and confirmed this act of Mr. Calhoun's, so admitting Texas into the Union, and placing the United States in a state of war with Mexico.*

Knowing that my esteemed friend, F. P. Blair, had taken a deep interest in this subject while it was before Congress, I addressed a note to him, requesting a statement of his recollections of the way the Texas question was got through the Senate. The following is his answer.  
I am, sir, yours.

BENJAMIN TAPPAN.

<sup>1</sup> George McDuffie, of South Carolina.

<sup>2</sup> Robert J. Walker, of Mississippi.

## BLAIR TO TAPPAN.

SILVER SPRING, July 7, 1848.

DEAR SIR,— Your letter of the 1st instant asks me to state what I know “as to the way the Texas question was got through the Senate.” I comply, and will not incumber the narrative with immaterial details.

When the resolution passed by the House of Representatives for the annexation of Texas reached the Senate, it was ascertained that it would fail in that body. Benton, Bagby, Dix,<sup>1</sup> Haywood, and, as I understood, you also, were absolute in opposition to this naked proposition of annexation, which necessarily brought with it the war in which Texas was engaged with Mexico. All had determined to adhere to the bill submitted by Col. Benton, for the appointment of a commission to arrange the terms of annexation with Texas, and to make the attempt to render its accession to our Union as palatable as possible to Mexico before its consummation. It was hoped that this point might be effected by giving (as has been done in the late treaty of peace) a pecuniary consideration, fully equivalent in value for the territory desired by the United States, and to which Texas could justly assert any title. The Senate had been polled, and it was ascertained that any two of the Democratic Senators who were opposed to Brown’s resolution, which had passed the House, could defeat it—the whole Whig party preferring annexation by negotiation, upon Col. Benton’s plan, to that of Brown.

While the question was thus pending, I met Mr. Brown, (late Governor of Tennessee, then a member of the House,) who suggested that the resolution of the House and the bill of Colonel Benton, preferred by the Senate, might be blended, making the latter an alternative, and leaving the President elect (who alone would have time to consummate the measure) to act under one or the other, at his discretion. I told Mr. Brown that I did not believe that the Democratic Senators opposed to the resolution of the House, and who had its fate in their hands, would consent to this arrangement, unless they were satisfied in advance by Mr. Polk that the commission and negotiation contemplated in Col. Benton’s plan would be tried, before that of direct legislative annexation was resorted to. He desired me to see Colonel Benton and the friends of his proposition, submit the suggestions he had made, and then confer with Mr. Polk, to know whether he would meet their views. I complied; and after several interviews with Messrs. Haywood, Dix, Benton, and others, (Mr. Allen,<sup>2</sup> of Ohio, using his influence in the same direction,) finding that the two plans could be coupled and carried, if it were understood that the pacific

<sup>1</sup> Arthur P. Bagby, of Virginia, and John A. Dix, of New York.

<sup>2</sup> William Allen.

project was first to be tried, I consulted the *President elect on the subject.*

In the conference I had with him, *he gave me full assurance that he would appoint a commission, as contemplated in the bill prepared by Col. Benton, if passed in conjunction with the House resolution as an alternative.* In the course of my conversation with Mr. Polk, I told him that the friends of this plan were solicitous that the commission should be filled by distinguished men of both parties, and that Col. Benton had mentioned to me the names of Crittenden and Wright<sup>1</sup> as of the class from which it should be formed. *Mr. Polk responded, by declaring, with an emphasis, "that the first men of the country should fill the commission."* I communicated the result of this interview to Messrs. Benton, Dix, Haywood, &c. The two last met, on appointment, to adapt the phraseology of Benton's bill, to suit as an alternative for the resolution of the House, and it was passed, after a very general understanding of the course which the measure was to take.

*Both Messrs. Dix and Haywood told me they had interviews with Mr. Polk on the subject of the communication I have reported to them from him, and they were confirmed by his immediate assurance in pursuing the course which they had resolved on in consequence of my representation of his purpose in regard to the point on which their action depended.* After the law was passed, and Mr. Polk inaugurated, he applied to Gen. Dix (as I am informed by the latter) to urge the Senate to act upon one of the suspended Cabinet appointments, saying that he wished his Administration organized immediately, as *he intended the instant recall of the messenger understood to have been dispatched by Mr. Tyler, and to revoke his orders given in the last moments of his power, to thwart the design of Congress in affording him (Mr. Polk) the means of instituting a negotiation with a view of bringing Texas peaceably into the Union.* Your friend.

F. P. BLAIR.

#### BANCROFT TO POLK.

LONDON, 13 October, 1848.

MY DEAR SIR,—I have received your letter of the 9th of September, 1848, and have read Mr. Tappan's printed letter to the Editor of the Evening Post of the 21st. of July last and that of Mr. Blair to Mr. Tappan of the 7th of July.

On your arrival at Washington in February, 1845, I joined you there at your request, took lodgings in the same hotel, and was very often with you. The subject which mainly engrossed the attention of Congress was the annexation of Texas. That measure was one of the

<sup>1</sup> John J. Crittenden, of Kentucky, and Silas Wright, of New York.

issues, on which the people had decided by your election ; you expressed yourself to me anxious that the declared wishes of the Democratic party should have effect. A division of opinion on the proper form of annexation prevailed in the Senate. You were indifferent as to the form, provided the substance was secured. You advised conciliation and union, the adoption of a form of resolution which would produce harmony and successful action, and you gave as your motive for this advice, your deep interest in the passage of the measure itself. You looked at the possible rejection of the measure, as a blow in advance at your administration. You seemed to me indifferent whether the house resolution prevailed or a substitute. I never heard you express an opinion about the details, or form of the measure : and when an option of forms was proposed and accepted by the Senate, you applauded the spirit of harmony which it manifested, but took care never to hazard the success of the measure itself by siding with either of the parties on questions of form. I remained to the last ignorant as to which of the two forms you would adopt; and had no reason to suppose that either was dissatisfactory. I never myself heard you discuss the relative merits of the two forms ; still less did I ever hear you express a preference ; nor did I hear in conversation with others, that you had done so.

My nomination as one of your cabinet was not confirmed till the tenth of March. As soon as I heard of this, but not before, I repaired to your mansion, and was shown into the room where the cabinet had been deliberating. The election of the first and second sections of the Joint resolution had been already approved, and Mr. Buchanan was on the point of going away in order to forward a despatch to Mr. Donelson.<sup>1</sup> Conversation ensued, and I was informed, that the decision which had been made before I was a member of the cabinet, had been the result of the unanimous advice of the other five members. The reasons which were given for their preference were : That Mr. Tyler and Mr. Calhoun had already made an election, which, it was found, could not be disturbed without some confusion, that Mr. Donelson<sup>2</sup> was a remarkably prudent man, who might be relied upon under Mr. Buchanan's instructions to conduct his part in the affair quietly and without irritating ; that the first and second sections of the Joint Resolution were more favorable to peace with Mexico, as they expressly reserved to the general government full power to negotiate a boundary with Mexico : that Almonte had already by demanding his passports on the mere passage of the resolution, rendered prompt action on our part imperative : that to delay action by the tedious process of a commission was but opening the way to Mexico to inflame the public mind : that

<sup>1</sup> This despatch, dated March 10, 1845, is in "Works of James Buchanan," vi. 120.

<sup>2</sup> Andrew Jackson Donelson.

the delay would be almost an invitation to England and France to employ commissioners on their part to prevent the consummation of annexation: and that the appointment of commissioners on our side to treat with Texas on the terms of annexation would be almost a temptation to Texas to make exorbitant and unreasonable demands, which the administration, pledged as it was to the measure of annexation, would have found it most difficult to resist.

I never heard from any one a hint, that the consultation of the Cabinet or your own decision, was in any [way] embarrassed by any previous declaration as to the option which you would make.

On the contrary, I always understood that the united Democratic party in the Senate intended and desired to leave your judgment free; and when on the tenth of March, 1845, Mr. Berrien attempted to draw from the Senate an expression of opinion in favor of the third section of the resolution, the Democratic Senators on the eleventh of March signified their unwillingness to embarrass you by postponing Mr. Berrien's motion indefinitely.

Your approval of the election which Mr. Tyler had made, was immediately known. It did not change Mr. Blair's willingness to be the confidential editor and organ of the administration. He remained desirous of that post.

I remember well our summer's drive, a year later, to Mr. Blair's house at Silver Spring. His reception was most cordial, as I had expected. He walked with us over the grounds nearest the house, and showed us his various improvements. Of your administration he expressed himself in terms, such as I had repeatedly heard from him, and such as were most gratifying to me to hear in your presence. He congratulated you on your good fortune in carrying out your measures, of which he expressed his approbation without qualification and without reserve. I never heard any man give a tribute to your administration more comprehensive or that seemed more from the heart.

I will add that in all the stormy days which I witnessed in Washington, and among all the complaints which always will follow the exercise of power, I never heard of this complaint of Mr. Tappan, nor any fault found with your course on the annexation of Texas, except by those who did not want it annexed at all. I remain, my dear sir, very faithfully yours.

#### BANCROFT TO POLK.

Private.

LONDON, 13 October, 1848.

MY DEAR SIR,—I send you to-day my reminiscences on the annexation of Texas, as far as your opinions were concerned.

I add two considerations. Tappan says your election of the House resolution placed "*the United States in a state of war with Mexico.*" The man is beside himself. The Senate's section was quite as unmind-

ful of Mexico, and even more so. This shows how Tappan's memory and judgment are both at fault.

Next. For Senators to have voted a compromise on which you were to be arbiter, and to have solicited your decision in advance, would have been dishonest. The compromise implied freedom of election on your part. It would have been a fraud on the majority of the Senate, to have passed a resolution with an alternative, when there was to be no alternative at all. Mr. Tappan's charge lies heaviest on himself. I do not think the subject merits much of your attention. The calumny is foolish. In substance the two modes proposed are identical. Each annexes Texas, and with or without the leave of Mexico.

I most ardently hope for your sake, for the sake of the country, for the sake of Europe, for the sake of the world, that Cass may be elected. The whole conservative force of England prays for his defeat. His success will be your own triumph. I wish I could witness it.

Pray find time to write me, but above all, in your last message, do not fail to speak in words that will make Europe leap. Speak specially in favor of the federative principle. In Austria a plan to have the Ban of Croatia come and take Vienna, has led to a new and a more determined insurrection.<sup>1</sup> The bad faith of kings, at a time, when if they were honest, they could do great good, leads to convulsions, and will lead alas! through bloody scenes to republican forms of government. If France would but learn the benefit of States Rights, of provincial liberties, she would redeem Europe.

Best regards to Mrs. Polk. Shall you come to Europe after the close of your wearisome but most glorious struggle? Ever most truly yours.

Perhaps it might be well to read to the Cabinet my narrative of their statement of their reasons of their advice. I think Marcy, Buchanan, Mason and Walker must all remember it. As to Johnson<sup>2</sup> I do not so distinctly remember about him on that day, but think he was with you.

<sup>1</sup> The Viceroy of Croatia was known as Ban or Pan, the Slavonic word for Lord. The Ban at this time was Baron Joseph Jellachich, who had first been appointed to the office by the Emperor of Austria, but in May, 1848, had refused to obey a summons to come to Vienna, and had been confirmed as Ban by a Slavonic Diet at Agram. For this he was declared a rebel, but made his peace with the Emperor, fearing Hungarian rule more than that of Austria. Kossuth was the Hungarian Minister, and under him the Magyars were intent upon punishing the Croats whom they regarded as rebels against Hungary. In this contest Jellachich received secret aid and encouragement from Austria, and this is the breach of good faith to which Bancroft refers. October 3, the Emperor placed Jellachich in command of the troops intended to restore order in Hungary, but an insurrection arose in Vienna itself, where the Hungarians had many sympathizers, and was suppressed by a combined movement of Austrians under Prince Windischgrätz and Jellachich. The Emperor Ferdinand resigned the throne in favor of his nephew Francis Joseph. Hungary was invaded, and Kossuth became a fugitive.

<sup>2</sup> Cave Johnson, postmaster general in Polk's cabinet.

Mr. NORCROSS communicated from his own collection of autographs two letters of Noah Webster, to which have been added such other letters as are in the Society's collection. Except where noted, they are addressed to Timothy Pickering.

PICKERING TO WEBSTER.

PHILADELPHIA, October 19, 1785.

SIR,— Some time since I met with the two first parts of your grammatical institute of the English language; and was so well pleased with the plan and execution, that I wished to have them introduced universally into the schools in America. Being a subscriber to the funds for supporting the Episcopal Academy lately established here, I took the liberty to recommend your institute; but one of the trustees informed me they were fearful of injuring the school if they should introduce a spelling book with which the people were totally unacquainted. No one, I believe, took the pains carefully to examine your institute. Had the trustees been convinced (as I am) of its superior excellency to any other used in America, I think for the honour and interest of the academy they must have adopted it.

I was pleased to see the spelling book and grammar printed in separate volumes. The reason you give for it is a good one: but the same reason induces me to propose your making a division of the *spelling-book*. The master of one of my children was so obliging as to let him use your spelling book: but before he had learnt his letters and a dozen of the tables the book was worn out. 'T is true he was a careless boy: but there are many such boys. I therefore earnestly wish you to think of such a division. The key for pronouncing the vowels, arranged in the clearest order, and fully explained; the alphabet, the double letters, and about half a dozen tables of words most proper for children to begin with, perhaps would be enough for their primer. These would be comprehended in a few leaves: but the leaves should be of thick, strong paper, and of a tolerable fineness, to take a fair impression from a large and good type. That called [blank] appears to me most suitable. For the letters ought to be perfectly fair and accurate to enable a child to distinguish them. The utility of such a primer will be obvious: but I have this further view in requesting you to undertake it. In the first place the pronunciation and spelling will be formed on true principles. In the next, as nothing of the kind is extant, there will be no Dilworth,<sup>1</sup> or any other imperfect spelling book to interfere with it; and being comprised in a few leaves, its cheapness will recommend it to parents. Then, your principles and plan being once adopted in the

<sup>1</sup> Thomas Dilworth.

primer, I think the introduction of your whole institute will follow of course.

In the preface to the 2d Edition of your spelling book, you mention Perry's dictionary<sup>1</sup> and Sheridan's rhetorical grammar<sup>2</sup> as books which had enabled you to correct several errors in the first edition. The slight examination I have made shews that their modes of pronunciation in many words materially differ from each other, and both from the practice in America, especially in New England. Sheridan's Thoozdy, Virtshoo &c. you will hear in Maryland and other Southern States; and instances of the same pronunciation are not uncommon in this City. Here also may be heard (*hurd* I should say) Perry's weel, weat, wat, wen, &c. (for wheel, wheat, what, when, &c) both which modes I exceedingly dislike. The former, I suspect, may have originated in the sound given to the letter u,<sup>3</sup> which, in learning the alphabet, we are taught to sound *eyoo*: then joining it to t, it becomes *teyoo*; and from *virteyoo*, *teyoozdy*, &c. pronounced rapidly, come *virtchoo*, *tchoozdy*, &c. Some gentlemen here sound *dew* as if it were written *deyoo*. There are many words in which that sound is universally given to u: but they do not appear to be clearly pointed out. In your first table, what sound would you direct a scholar to give to du, nu, ru, tu, wu? Some consonants easily unite with u in the sound *eyoo*, but others not without much difficulty. Being a perfect stranger to you, Sir, you may think I have used much freedom in thus addressing you: yet the nature and design of this letter will I hope be a sufficient apology. I knew not that you was at Baltimore until my nephew, Mr. Gardner, lately mentioned his having been there in your company. If business should lead you to Philadelphia I shall be happy to see you. Mr. Samuel Blanchard at Baltimore will hand you this letter, and make me known to you. I am, Sir, etc.<sup>4</sup>

TIMOTHY PICKERING.

SIR,—I have just had the satisfaction of receiving your favour of the 19th Current: and acknowledge myself honoured by your attention to my publications. I have ever been a little surprised that the Institute<sup>5</sup> found little or no sale in Philadelphia, the first City in

<sup>1</sup> William Perry, who prepared a "Royal Standard English Dictionary" (1775).

<sup>2</sup> The Rhetorical Grammar was prefixed to his Dictionary (see p. 124, *post*), but was separately printed in Philadelphia in 1783. It retained some of its popularity, as a third edition appeared in 1789.

<sup>3</sup> Note by the writer: "I do not know but you have some where made a remark to this effect."

<sup>4</sup> Pickering Papers, v. 375 a.

<sup>5</sup> The Spelling Book and Grammar, which formed the first and second parts of the "Grammatical Institute."

America ; when it is generally received in the Northern States, in New York and in Charleston, S. Carolina. I must impute it to inattention. Your idea of dividing the first part, strikes me favourably and it is probable will have its effect. The edition you have seen is the second ; the third and the fourth are printed in larger types, — *Pica*, which is probably the type you left a blank for in yours. Your remarks on Mr. Sheridan's Dictionary<sup>1</sup> are just and I shall yet prove a troublesome critic to the Author. No person has ever opposed the corruptions of the English Theatre ; and it is impossible to determine what may be the effect of candid criticisms, founded on the principles of pronunciation and the real harmony and elegance of the language. So much is certain, — I have read a short course of lectures in this town, which I have just finished. My criticisms have the approbation of the best judges in this town, who attended the Lectures and who advise me to proceed in my plans. My remarks extend to Bishop Lowth<sup>2</sup> and to other Grammarians as well as to Mr. Sheridan. Their works appear to me capable of improvement and in many instances of great corrections. My criticisms are *new* and no person here is capable of disproving my remarks. I have begun a reformation in the Language and my plan is yet but in embryo.<sup>3</sup>

I have some business in Richmond, Virginia, where I shall travel in a few days ; on my return, I shall make some stay in Philadelphia. I hope to be there by the first of December, and probably shall read my Lectures in that city. As I am the first American, who has entered on such important plans and a youth, as well as a Yankee, I shall need the countenance of Gentlemen of your established Character. In order to prepare the minds of people for such an event, I could wish that a paragraph may be inserted in a Philadelphia paper, informing that I may be expected to read a course of Lectures on the English Language, sometime this winter. I shall then have an opportunity of satisfying your enquiries in a more particular manner. I have the honour to be with the highest respect, etc.<sup>4</sup>

BALTIMORE, October 28th, 1786.

SIR, — Before I went into Virginia, I had the honour of receiving a Letter from you, which I could answer in a few words only. I have

<sup>1</sup> Thomas Sheridan's "Complete Dictionary of the English Language," London, 1780.

<sup>2</sup> Robert Lowth, whose "Short Introduction to English Grammar" was issued in England in 1762.

<sup>3</sup> This took the form of a reformed spelling, on which he corresponded with Benjamin Franklin, and in 1790 issued a volume using his new methods, which did not find acceptance. This volume is entitled "A Collection of Essays and Fugitive Writings," Boston, 1790. See p. 129, *post*.

<sup>4</sup> Pickering Papers, xviii. 291.

now finished my business in these States, having secured the copy right of my works and introduced them into the schools. I have also read Lectures in the Principal Towns in Virginia and Maryland, and tho' I most pointedly oppose Dr. Sheridan and Bishop Lowth in some particulars, I find no opposition. I convince the judgment, tho' I may not reform the practice. My success has encouraged me to proceed, and I shall risque my reputation in Philadelphia, New York, and Boston, upon the merits and strength of my criticisms. I shall make one *General* effort to deliver literature and my countrymen from the errors that fashion and ignorance are palming upon Englishmen. The question will then be, whether the Americans will give their opinions and principles as well as their purses to foreigners, and be the dupes of a strolling party of players, who, educated in the school of corruption, have no profession, but to make people laugh, and who, dependent on opinion, for subsistence, must conform to caprice at the expense of every principle of propriety. I must wait on the Legislature of Delaware, and shall, I expect, be in Philadelphia by the tenth of February. Two circumstances will operate against me. I am not a *foreigner*; I am a *New Englandman*. A foreigner ushered in with titles and letters, with half my abilities, would have the whole city in his train. But let my fate be what it will, I am convinced I am right, and have had the good fortune to convince every good judge who has heard me, that I proceed on true principles. They tell me that my plan will certainly succeed. I have the honour, etc.<sup>1</sup>

BALTIMORE, January 20th, 1786.

SIR,—The President and Officers of College in Princeton, and all the students express a wish to hear my Lectures; but on'takeing subscriptions we find but 16 students who will attend. Two reasons may be assigned; the students are reveiwing the studies of the Year, for examination which will begin the week after next, and they have no cash. Just *after* a vacation they would all attend.

I shall not read Lectures on such prospects, but to day move on to N. York.

Please to present my compliments and respects to Mrs. Pickering and Sister, Mr. Hodgdon,<sup>2</sup> and believe me, etc.

PRINCETON, March 24th, 1786.

P. S. I shall be obliged, if you will send me a copy of the Primer as soon as finished.<sup>3</sup>

<sup>1</sup> Pickering Papers, xix. 6.

<sup>2</sup> Samuel Hodgdon, who had been associated with Pickering in the Commissary Department in the last years of the Revolution.

<sup>3</sup> Pickering Papers, xix. 21.

NEW YORK, 9th April, 1786.

SIR, — Thursday evening I read my first Lecture. Dr. [David] Ramsay, chairman of Congress, Dr. [William Samuel] Johnson, etc. attended and have spoken so favorably of my design, that I am informed, many of the Delegates will attend in future.

Mr. Nichols, a native of Connecticut, but resident in this City, an approved instructor of youth, wishes to know the real prospects of succeeding in a Commercial school in Philadelphia. He wishes to know what men will support him in the attempt, what room can be procured, at what price. I can recommend the Gentleman, if you can satisfy him in these particulars. My Respects to your family, the mail is waiting. Yours, etc.<sup>1</sup>

SIR, — Yours with the Primer and Pamphlet were received yesterday; for which please to accept my sincere thanks. There is a capital error in the end of the 5th Table. The number 8 has no place in the Primer. The words placed under it are besides of different sounds, and not one comes under figure 8. Please to erase it. In Table 9th, the word *corollary* I believe is usually accented on the 2d syllable. *Jocular* should be *jocularly*. The note at bottom might have been dispensed with, as *heterodox*, etc. are omitted in the Table. I have not examined critically for other mistakes. The work in general pleases me. I wish you had been particular in pointing to the words in which your practice differs from mine.

With respect to the Grammars, Sir, I shall [make] many alterations and amendments, and I wish not to have it introduced before they are made. Suppose a short paragraph were inserted in the public paper, informing those that have called for it, that I wish to make many amendments before it is republished.

I wish some of the Primers could be sent to Wilmington. I have many friends there and they would promote the sale. The copyright, if necessary, may be secured in Pennsylvania, by leaving a copy with the Prothonotary, Mr. Smith, and taking a certificate in my name.

I am improving my Lectures. I have added another. I have regularly about the same number as attended in Philadelphia, among [whom] are many of the first characters in Congress and the Citizens. The design is well received.

I am surprised that you never told me of my great fault in speaking, pitching my voice on too high a key. It was almost the sole cause of the other fault which you took so much pains to correct. They cured me here the first evening. And I speak now so as to please myself tolerably well, which I did not in Philadelphia. This week I finish. I have received requests to read Lectures in Boston and Portsmouth. I propose to read in Hartford, in May, during the Session of the Legis-

<sup>1</sup> Pickering Papers, xix. 27.

lature, in New Haven, the beginning of June, and then proceed to Boston.

A duel was fought last Friday evening between Mr Curson and Mr. Burling, the former can not recover of his wounds. The latter escaped, as Mr. Curson did not fire.

The paper money bill is a law. The Impost passed the Assembly, under too many restrictions; it is expected the Senate will make some amendments, and we do not despair that the Assembly will comply with them.

Please to present my most respectful compliments to Mrs. Pickering, Mr. Hodgdon, and Miss White, and believe me, etc.

NEW YORK, April 25th, 1786.

P. S. The reception of your former letters I forgot to mention. Mr. Nichols will move his family this spring and waits for some information from Philadelphia to govern his determinations.<sup>1</sup>

SIR,—Yours by Mr. Hurd was received just as I was setting off for Albany. Your last, with the Primer, was forwarded from N. York by Dr. Johnson.

Mr. Nichols will be in Philadelphia in June, and I will give him a letter to you.

I like very well the method you have taken with the erroneous column in the Primer. It is now reprinting with nearly the same amendments; substituting three proper words for figure 2. In this manner you have corrected it, it may be sold in Philadelphia.

It appears to me that your pronunciation of *bone* and *behold* is singular; I am inclined to reject the distinction of o<sup>1</sup> and o<sup>2</sup>. It is so trifling in all words that it is perhaps unnecessary; altho it is most obvious in *whole*, *bolt*, etc.

I would not infringe my general rule respecting *e* final by marking it in Italic. Its effect in softening *c* and *g* should have been mentioned; but the omission will not probably occasion mistakes.

*Dose*, to slumber, I supposed was right. I have no authorities with me to decide the question.

Your opinion respecting *has*, *hath*, etc. appears to me singular; but I may be wrong.

*Dera<sup>2</sup>nge* is a mistake. I believe it is corrected in the last editions of the Institute.

I never heard *plant*, pronounced pla<sup>4</sup>nt, etc.

*Butterfly* etc have a second accent, but its not being mentioned can occasion no mistakes. Nice distinctions would rather perplex, than assist the young pupil. I conceive that the omission of the half accent altogether in this work, would not have been material.

<sup>1</sup> Pickering Papers, xix. 44.

*Obduracy* I shall always accent on the first syllable, our practice has analogy with it. *Celibacy*, the same.

*Teat* we shorten, *tit*, but perhaps improperly.

In table 2 Lesson 2 I substitute *stroke* for *cloke*.

The distinction between *Cruise*, a *voyage*, and *cruse*, a *cup*, appears to me well established in practice and very useful.

Our practice is in many respects, so different that it is almost impossible to reconcile our opinions. It will probably never be done till our alphabet shall be reduced to perfect regularity. I have a plan of the kind in contemplation. Dr. Ramsay, Chairman of Congress, has advised me to lay it before Dr. Franklin, and if approved, to have it come regularly before Congress.

The plan is very simple and undoubtedly practicable. The idea is well received in New York and many of the most discerning Gentlemen in Congress are its warmest advocates. They have done me the honor to attend the Lectures and stand corrected in some particulars.

As soon as I can complete the plan of a reformed Alphabet, I will direct it to you to be laid before Dr. Franklin.

I have made a little tour up the Hudson, with particular views, and at the request of a few friends, am reading Lectures in this City. In a few days I shall proceed to New York and then to Hartford.

Accept my thanks Sir, for your attention to my particular concerns and believe me, with respects for yourself and family, Your much obliged and very humble servant.<sup>1</sup>

ALBANY, May 12th, 1786.

SIR,— On Saturday evening I returned from Albany. I have had the pleasure of receiving your favor by Dr. Craigge. I am in haste, and can only observe, that the mode of education you have described is generally agreeable to my ideas. I wish it might be adopted in all our commercial towns, and shall use my influence for this purpose.

Mr. Nichols proposes to be in Philadelphia next month. He is capable of conducting a school well, and will want nothing but the countenance of influential men to push his exertions. I have seen Mr. Thomas's advertisements and shall make the design a matter of some attention when I travel eastward. With every acknowledgement for your attention, I am Sir, etc.<sup>2</sup>

NEW YORK May 21st, 1786.

SIR,— Enclosed is a Letter to Dr. Franklin covering the Plan of a Reformed Alphabet.

I am in some haste, preparing for a journey to the eastward and consequently have not time to be very explicit. You will be so kind as

<sup>1</sup> Pickering Papers, xix. 50; <sup>2</sup> 54.

to wait on His Excellency and will then have an opportunity of examining the plan. I wish Sir, you would continue your freedom in making remarks and suggesting new ideas.

The advantages expected from a reformation of the Alphabet are :

1st. It will render the acquisition of the language easy both for natives and foreigners. All the trouble of learning to *spell* will be saved.

2. When no character has more sounds than one, every Man, woman, and child, who knows his Alphabet can spell words, even by the sound, without ever seeing them.

3. Pronunciation must necessarily be uniform.

4. The orthography of the language will be fixed.

5. The necessity of encouraging printing in this country and of manufacturing all our own books, is a political advantage, obvious and immense.

6. A national language is a national tie, and what country wants it more than America ?

Many other advantages will readily be suggested to your mind ; and I must think the scheme practicable.

Please to direct Letters for me at Hartford, even when I am in Massachusetts or New Hampshire. I am Sir, with the highest respect, etc.<sup>1</sup>

NEW YORK, May 25, 1786.

SIR,—I presume that you must have seen Mr Nichols before this time, as his business required him to be in Philadelphia about the 15th of this month. I should have given him a Letter, but did not see him at Hartford in May, as I expected.

I read my Lectures to a few friends in Hartford, but most people paid no attention to them. I was at home. In New Haven I have about 70 hearers, consisting of the best families in town, and a few scholars ; a greater number in proportion to the size of the town than I have had before ; and they seem more pleased with the plan than any audience I have had.

Next week I go to Boston ; where I shall be happy to hear from you. I shall probably lodge at Mr. [Joseph] Ingersolls, in Queen Street.<sup>2</sup>

I have received a letter from Dr. Franklin in answer to that which I sent him enclosing the scheme of a Reformed Alphabet. He deems the plan practicable and will give it all his support. He wishes me to go to Philadelphia soon and confer with him upon the subject ; his ideas being very similar to mine and it being difficult to discourse

<sup>1</sup> Pickering Papers, xix. 56.

<sup>2</sup> The name of the street was changed, July 4, 1783, to Court Street.

about sounds on paper. But I cannot go till I have visited Boston and Portsmouth, as I had previously engaged to read lectures in both, before I received his Letter.<sup>1</sup>

Please to present my respects to Mrs. Pickering and the family and believe me your very obliged and most humble servant.<sup>2</sup>

NEW HAVEN, June 30th, 1786.

SIR, — Your favor of the 30th past was received yesterday. I know not what reason can be assigned for Mr Nichol's conduct; he was express in his declaration that he should be in Philadelphia in June. Some unexpected event must have prevented him. Many Good Characters may be obtained at Yale College, especially at this season, just before Commencement. But I shall not be there till October.

My lectures will probably be ready for the press the ensuing winter. I am collecting everything from books and men which will confirm my principles or improve the work. I shall not however finish them till I see Dr. Franklin which will probably be the last of October or beginning of November. He has written to me twice on the subject of some reformation and requested an interview with me, as soon as I have read Lectures in these Eastern Towns. Men of Literature and particularly the clergymen, who are liberal and sensible in their parts, are in favor of my ideas. But the people in Boston did not attend the lectures. I had but 30 generally, and never more than 60. Among these however were the most influential of the literati. In Salem I have 40 constant hearers; and next week I proceed to Portsmouth.

I must procure my paper for the Lectures in Philadelphia and I shall want about 80 Reams of the finest *Demi* (I believe they call it) which can be made. It should be equal to the best writing paper. I propose to print 1500 copies, large Octavo, and it will make, probably 400 pages. I must request you, Sir, to contract for the paper and have it made before cold weather. I expect to pay cash and at least half in hand.

I wish some New England masters would open school in Philadelphia; they would give a new turn to the mode of education in that City. I will do what I can to encourage them.

There is a political ferment in this State. Some towns are disposed for a Convention to redress Grievances, the principal of which are *taxes* and the existence of a Senate in the legislature. People wish to get rid of these evils immediately. Sutton has burnt its tax bill, and another town has voted not to pay taxes. Storms of this kind are sudden and transient; men of sense and judgement will never oppose

<sup>1</sup> Franklin to Webster, June 18, 1786.—“Writings of Benjamin Franklin” (Smyth), ix. 518.

<sup>2</sup> Pickering Papers, xix. 64.

the execution of laws which are made by the body of the people, and which the leading characters judge salutary. It is a fact, demonstrated by correct calculation, that the common people in this Country drink Rum and Tea sufficient every year to pay the interest of the public debts,—articles of living, which so far from doing them any good, injure their morals, impair health and shorten their lives. A man has a right in a political view to make himself sick or drunk when he pleases, provided he does not injure himself or his neighbors; but when by these means he renders himself unable to fulfil the duties of society or comply with the laws of the State, very little indulgence should be granted to his vices. The best way to redress grievances is for every man, when he gets a sixpence, instead of purchasing a pint of Rum or two ounces of tea, to deposit his pence in a desk, till he has accumulated enough to answer the calls of the Collector. Every man who does this sacredly, redresses his own Grievances. I am Sir, with gratitude and respect, Your humble Servant.<sup>1</sup>

SALEM August 10, 1786.

#### ADVERTISEMENT.<sup>2</sup>

To-morrow evening, At half after seven o'clock, in Mr. Hunt's School-House, Mr. Webster will begin a short Course of LECTURES on the *English Language* and on *Education*. The course will consist of Six Lectures; the heads of which are the following.

I. Introduction. Origin of the English Language. Derivation of the European Languages from the ancient Celtic. General History of the English Language. Its Copiousness. Effect of this. Irregularity of its Orthography. Causes of this.

II. Elements of the English Language investigated. Rules of Pronunciation. Different Dialects of the Eastern, the Middle and the Southern States.

III. Some Differences between the English and Americans considered. Corruption of Language in England. Reasons why the English should not be our Standard, either in Language or Manners.

IV. Prevailing Errors in the use of Words. Errors of Grammarians in the Arrangements of the Verbs. Consequences of these in the most correct Writings.

V. Poetry. Principles of English Verse explained. Use and effect of the several Pauses. Effects of different poetic Measures illustrated by Examples.

VI. General Remarks on Education. Defects in our mode of Education. Influence of Education on Morals, and of Morals on

<sup>1</sup> Pickering Papers, xix. 74.

<sup>2</sup> From the "Massachusetts Centinel," July 12, 1786, A complimentary notice of the first lecture appeared in the Centinel of July 15.

Government. Female Education. Connection between the Mode of Education and the Form of Government. Effects of an European Education in America. Tour of America a useful Branch of Education. Conclusion.

Tickets to be sold at the Post-Office, and at Mr. Battelle's Book-Store in Marlborough-Street, at 12s. the course, for Gentlemen, 6s. the course for Ladies, and 3s. a Ticket for an evening.

After the course shall be finished, a lecture will, if desired, be delivered for the benefit of the poor; consisting of remarks on the population, agriculture, literature, climate and commerce of the United States, taken mostly from actual observation. After the first lecture the evenings proposed are Monday, Wednesday and Friday; the evening after Commencement excepted.

Those who purchase a Ticket for the first evening may afterwards take a Ticket for the course at 9s. *Boston July 12, 1786.*

BOSTON, September 13, 1786.

SIR, — From Salem I proceeded to Portsmouth, and on my return I read Lectures in Newbury Port; in these towns I had about as many hearers as in Boston. I had about 30 in Boston, 40 in Salem, about 30 in Portsmouth, and 25 in Newbury Port.

Since I have been Eastward, some Gentlemen in this town have obtained subscriptions for a repetition of one or two of my Lectures. If a few more should be added this day, I shall read on Monday evening.

My books are gaining ground, and there are editions now in the press in New York and Boston. I shall next week proceed to Providence.

This State is in great tumult. The Court of Common Pleas has been stopped in Hampshire, Worcester, and Middlesex. In Bristol General Cobb had orders to raise the militia, which he did and took possession of the Court House and the Court was regularly opened and adjourned. Cobb had about 300 men, with a field piece, the mob amounted to 500 men, about 40 of whom had arms; but their arms disappeared on sight of the militia. The people were not outrageous, and it is believed that decisive measures, taken in season would have enabled the other Courts to sit or at least to have adjourned as they did in Taunton. The mob is headed by some desperate fellows, without property or principle. Many well-meaning people are led into opposition merely by false information and the *truth*, diffused among the people at large, would soon restore tranquillity. I am, etc.<sup>1</sup>

<sup>1</sup> Pickering Papers, xix. 78. A long letter from Webster to Governor Bowdoin, of Massachusetts, on the continental finances, dated March 15, 1787, is in 7 Coll. vi. 173.

## TO JEREMY BELKNAP.

HARTFORD, September 19, 1789.

SIR, — I have contracted for the finishing of Winthrop's History, and will thank you to forward it, well enclosed, by the first conveyance. There are two Gentlemen from this town in Boston, I believe at Mr. Archibald's<sup>1</sup> behind the Old Brick [Church]. Your compliance will oblige, your most obedient etc.<sup>2</sup>

HARTFORD, October 10th, 1791.

SIR, — After the great favors I have received from you and the confidence you have gained in my esteem, the subject of this letter will not be surprizing to you. The Copy right of my Institute in Pensylvania and the neighboring states is again in my own hands. The terms of Contract with Mr. Young did not please me and I have purchased his right, or rather his pretensions to right. At present I wish to publish the work myself, tho' I have hardly capital to spare for the purpose. I have an addition of a dozen pages to make to the Spelling book, viz. a Moral Catechism. The work then will consist of about 160 pages. The Selections abridged will make about 200 or 220 pages. This abridged edition has taken place of the other here, and is very saleable. I wish to supply New York market with this part, from Philadelphia, and the sale *there* is about 600 or 700 annually. The sale of the Spelling book by Mr. Young has been about 7000 a year.

The expense of an impression of 5000 Spelling books is thus

70 Reams of paper a 14/	£ 49. 0. 0
Printing 61-2 sheets a £5	32. 10. 0
	} Penn.
	} Curr'y.
	<hr/> £ 81. 10. 0

This calculation is high, for paper, I believe, of a suitable quality may be purchased at 12/ or 13/, and I think £5 a sheet for printing is too high; but of this I am not a competent judge.

5000 Copies in Sheets @ /7 £129. 3. 4.

I shall not bind the books, but sell them in sheets at /7d. which I believe is the customary price, tho' of this I am not certain; I wish to keep them at the usual price.

Now, Sir, if your business will possibly admit of your calling on some printer, or bookseller, (I have sent Mr. [John] Fenno a line on the subject) to know whether any of them will undertake to print the

<sup>1</sup> Francis Archibald, Church Square, Cornhill, who took in "gentleman boarders."

<sup>2</sup> Belknap Papers, II. 24. Another letter to Belknap, on the publication of Winthrop, is in 6 Coll. IV. 430. Webster, in February, 1788, planned to publish a magazine. See same volume of the Collections, 385.

books on their *own* account and allow me a share of the profits, or on *my* account and charge me with the printing and paper, selling the books in sheets, and crediting me the net proceeds, taking a commission for the business, I should be very glad indeed. If it is necessary for me to advance a part of the money, I will do it. The printers I should prefer are Mr. [John] Feno, Mr. [Joseph] Crukshank, Mr. [Benjamin Franklin] Bache, Mr. [Francis] Bailey; but this I leave to you, excepting that for the sake of Mr Feno and family, I wish to give a preference. It might require some trouble and time, tho I should imagine not much, to make a contract in the first instance; but after that, no trouble at all. I would allow ten per Cent on the proceeds of sale to any person transacting the business and advancing the money; and five per Cent for transacting the business without advances.

I hope, Sir, your official business will not prevent your assisting me in this matter; as I do not repose the same confidence in any other man. Otherwise, you may appoint a person you can rely upon to do this business and I shall acquiesce.

I am very happy in your late appointment, believing it must be agreeable to your family as well as acceptable to yourself.

With respects for Mrs. P. and your friend, I am etc.<sup>1</sup>

HARTFORD, December 18th, 1791.

SIR,— Your obliging favor of the 8th Current has been recd. No apology was necessary for your delaying an answer to mine. I know your heart, Sir, too well to ask for one in any case. I supposed good reasons for your delay, and wrote to Mr. Ely to make some enquiries for me; but have yet received no answer from him. The price of printing is so much higher in Philadelphia than here, that at present I shall relinquish the plan of getting work done in Philadelphia. I can get the Spelling book printed here for *four* pence, *Pennsylvania* Currency, paper included; and any of our printers would do it for less than *five* pence. I should however be under no apprehension of not selling the book at a profit even giving *six* pence, were it not for Campbell whose conduct, in striking off 50,000 at the close of his term, I was before apprized of, and which *deserves*, and may hereafter receive, serious notice. On this subject however it is necessary to observe silence. But he may push thousands into the Philadelphia market at a very *low* price, he almost certainly will, altho he has no more right, than any of the New England Printers, so to do. However I have an additional half sheet for the work, which will contain what I call "A Moral Catechism, or Lessons for Saturday." This I think will be a valuable addition to the work, and give my impression

<sup>1</sup> Pickering Papers, xix. 215.

a decided preference in market. As Campbell cannot print this little pamphlet to add to the Spelling book, I hope to obtain in part that sale for my impression which his integrity would not give me in the Philadelphia market, which is now wholly my right.

I shall early in Spring send some books from Hartford to some bookseller in that City. I suppose the market is at present supplied.

My *dissertations*,<sup>1</sup> which cost me a large sum of money, lie on hand, and must, I believe, be sold for wrapping paper. Some of my Essays found sale, perhaps a third; the remainder will probably be a dead loss. Mr. Dobson had 100 of each, and I am almost afraid to ask for his account of sales, for fear he will bring me in debt for binding.

Have you seen the *Prompter*?<sup>2</sup> A small impression here sells rapidly, it probably would in Philadelphia. I sent a Copy to Mr. Wolcott, desiring him to give you the reading of it. If an impression of 1000 or 1500 would sell in Philadelphia, a license for printing it might be obtained; and the author stands in need of any little profit that would arise from the sale.

Of your obliging attention to my requests, be assured of my sensibility, as well as my respect for your character; and that no man is readier to serve you than, Sir, your most obedient and most humble Servant.

P. S. I should be happy to know whether my answer to the Review of my Essays has appeared in the *Columbian Magazine*.<sup>3</sup>

HARTFORD, March 10th, 1792.

SIR,—Enclosed with this I send you a Copy of the *Prompter*, which I will thank you to get printed in Philadelphia. Experiment proves it will sell. One impression here is gone, another at Albany is selling rapidly. I am willing to take the risk of an impression of 1500 or 2000 in Philadelphia. Please to get it done in the cheapest and best manner, but on a smaller letter and in a less size. My opinion is that it should be done in *sixteens* and on a *small pica*. In that manner it will make about the same number of pages, or *three sheets*. A ream of paper to 1/2 a sheet will make about 900 complete copies. Six reams then will make that number of books. I believe it will be safe to print *two* reams in a *half sheet*; so that 12 reams will complete 1800 books. If it is necessary to advance money for the paper, please to draw on me for it at a short sight. I wish the paper to be very good and the letter also. The binding I wish to be in *marble paper*, but as they may be

<sup>1</sup> "Dissertations on the English Language . . . with an Essay on a reformed Mode of Spelling," Boston, 1789.

<sup>2</sup> "The *Prompter*; or a Commentary on Common Sayings and Subjects," which passed through many editions.

<sup>3</sup> Pickering Papers, xix. 245.

bound as they are called for, little money need be advanced for that; indeed they may be sold in sheets, at a price we can fix, when the expense of the paper and printing is ascertained. If the printer will not wait for his money till the books sell, I will pay a draft for it. But I conceive there can be no difficulty on this score. I calculate the expense of paper and printing and binding not to be higher than 7 cents, or 8 at farthest. Perhaps it will.

If I am not known generally to be the writer of the book, I wish to be concealed, especially in Philadelphia. The writer, while unknown, has been called in that city a very *wise man*, but should it be known among my enemies that Noah Webster wrote it, I am confident both the writer and the book will be abused. With sentiments of respect, I am, etc.

P. S. Which of the Booksellers, in your opinion, Sir, may be best entrusted with a commission of books?<sup>1</sup>

HARTFORD, March 31, 1792.

SIR,—I thank you for yours by mail. I highly approve of your employing Mr. Cist to print the Prompter, and cannot say his terms are unreasonable. Paper is higher in Philadelphia than here. I must suspend the printing at present for want of money, merely on account of the low price of bills on Europe. I sent one to New York; just at Mr. [William] Duer's failure, and my agent will not sell it, nor do I choose he should, till the price rises. And as I have no other *present* resource, the work must be suspended, if the printer expects ready pay, which I suppose he does.

I am also doubtful about so large a number as 1800. Will it not be prudent to publish a smaller number, at first. On this head, I wish for the opinion of yourself and some of the booksellers who have seen some of the numbers.

I will let you know when I can pay for printing, that the work may proceed.

Mr. [Mathew] Carey has republished some of the numbers from the papers; if convenient, please to suggest to him, from the author, the impropriety of his continuing them since the work is placed under the protection of Law. I am, Sir, with great friendship and respect, etc.<sup>2</sup>

HARTFORD, August 26, 1792.

SIR,—I must request you, if I do not trouble you too much, to enquire of the Brick-makers in Philadelphia their manner of manufacturing their *best* brick. It is certain their bricks are much better than we have made in Connecticut. Whether their clay is pure or mixed with

<sup>1</sup> Pickering Papers, xix. 258; <sup>2</sup> 263.

sand; how they pulverize it and mix it with water; how long they let the brick dry before burning; whether the bricks when dry are put into the moulds a second time; whether the moulds are lined and with what; how the bricks are burnt, etc. are inquiries I wish to have made; as some information on this subject may assist our manufacture of this article. I want early intelligence on this subject, as we are about building a large Court house in this town of the best materials. I hope I do not trouble you too much and am with great respect, etc.<sup>1</sup>

HARTFORD, November 11th, 1792.

SIR,—By last evenings mail I received 50 dollars from Mr. Cist on account of sales of my *books*; but he does not say *what* books. I have no way for accounting for this, but by supposing he has printed the *Prompter*; if so, I am indebted for it to your negotiation, and beg you will accept my thanks.

The bearer of this, Mr. John Leffingwell, is a Joiner (or in Pennsylvania dialect) a house Carpenter, who has contracted to perform that part of the Court House in this City. He has some business in Philadelphia, and perhaps you can help him to some information that may be useful to him.

Your letter on brick-making, Sir, was duly received and its contents communicated to the Superintendants of the proposed Court House. They are, I believe, not public-spirited enough to *hire* such a workman as you mention; but they agree with you in opinion that such a manufacture would be useful. I wish some enterprizing master-workman would come here and *begin* the business, for a *beginning* only is wanted to make it flourish. Our clay is so good and in such abundance, labor and wood are so much cheaper than in Philadelphia, that our manufacturers might afford stock brick lower than those in Philadelphia. We should supply New York, and lower the price in Pennsylvania. Had I capital, I would patronize the undertaking, but *vires desunt*. I will thank you to point Mr. Leffingwell to some of the manufacturers of brick that he may communicate on the subject. I am, etc.

P. S. Mr. Bradley has called on me and explained the matter of the bills enclosed. I shall be happy to render him any civility and you, any service in my power. I have given him my opinion as to *one* method in which I suppose depredations have been committed, with[*out*] any fraud in the Post masters.<sup>2</sup>

HARTFORD, April 10th, 1793.

SIR,—In order to carry into effect the plan proposed, it is necessary to have from you an order or warrant to all the Post Masters between

<sup>1</sup> Pickering Papers, xix. 271; <sup>2</sup> 276.

New York and Hartford, to open the bag between these two places, during your pleasure or mine. The plan we have formed, if prosecuted some weeks or months, will ensure success, if any crime is committed during that time; and the wickedness is not in the Offices, which, I believe, is not the Case.

I propose to be in New York next Sunday or Monday, where I shall wait for your orders to the post masters, as above, which please to enclose to me at that place, as soon as you receive this. The expense of this business will not, I hope, exceed that of one Journey to New York. I am, etc.<sup>1</sup>

HARTFORD, April 22d, 1793.

SIR,—I have just arrived from N. York. Our plan will begin this week, it is highly agreeable to *those* to whom it is communicated. I will thank you to be silent on the subject, except to me or Mr. *Bauman*; <sup>2</sup> and for safety it may be best not to write explicitly on the subject at present. Your draft on Mr. Bauman was paid, he told me he would return the bill, *paid*, the next day; this will be my receipt. When do you set out for Sandusky? I am, etc.<sup>3</sup>

NEW YORK, January 8th, 1794.

. . . I believe Mr. Young has the last edition of my S[pelling] Book; the last Connecticut impression, I believe, is the 13th or 14th. Please to enquire for that which has the "Moral Catechism," and if it is not in Philadelphia, I will send you what you may want.

My principal view in forming my present plan of business was to print my own books, correctly, and take the benefit of them. We shall have out an edition early in Spring.

I have a sincere desire that postage may be taken from carriage of newspapers, except a small duty of perhaps 1/2 Cent to the postmasters. I find it a great objection to the taking of papers in the country: And I cannot see the policy of it, when the revenue must be trifling. Excuse this freedom; my opinion is probably different from yours. I am, etc.

P. S. By a vessel from Liverpool we learn, the late Queen of France has followed her husband.<sup>4</sup> Quem Deus vult perdere, prius dementat!<sup>5</sup>

<sup>1</sup> Pickering Papers, xli. 125.

<sup>2</sup> Sebastian Bauman, postmaster at New York.

<sup>3</sup> Pickering Papers, xli. 130.

<sup>4</sup> Marie Antoinette was executed October, 1793.

<sup>5</sup> Pickering Papers, xix. 307.

NEW YORK, November 24th, 1796.

SIR,— Permit me to ask you as a private man and a friend, how long the *delicacy* of our government will suffer every species of indignity from the agents of the French nation in this Country? Why are not the details of the negociation of 1783 given to the public? Why not inform our fellow citizens of the Imperious demand made by the Committee of Safety through Mr. Munroe, of a “Copy,” of the Treaty with Great Britain, before it was ratified?<sup>1</sup> Why not collect and publish evidence of the bribery of the agents of that nation in America? Our people *do not know* the extent of their intrigues, nor the base treatment our government receives and has received from them. I feel much mortified at the abuses received; and regret the strength of the French party in our country. Could not the French minister, in case of a civil disturbance, command force enough in the City and County of Philadelphia to drive every honest man away and lay waste the city? I firmly believe it. Are we then to be split into parties to become the convenient tools of foreign intrigues? For mercy’s sake let the government assume a decided tone. We had better surround our Country with a wall of brass, than to be thus torn into factions by the agents of powers, in whose rivalries we have not the smallest interest. Pardon my earnestness, and believe me, etc.<sup>2</sup>

NEW YORK, December 8, 1796.

SIR,— I have received yours of the 6th and thank you for it.

I once conversed with Mr. King on the subject of publishing the material facts in the negotiacion of 1783. He said, a motion had once been made in Senate for the purpose; but was not carried through, on account of the delicacy of disclosing some things that implicated certain American characters. Now this, in *my* mind, is one of the most substantial reasons, why the whole ought to be published. I think it should be a main object of government, to arrest every attempt to introduce an improper foreign influence; and that no measure will better answer this purpose, than that of *making examples* of American citizens, who yield to that influence. It appears to me, that the exigency is the same, as that which would induce the Commander of an army to make a public example of the *first Deserter*.

If permission can be obtained from the Executive of the United States, I would undertake to examine the papers relative to the Negotiacion of 1783, and select for publication such parts, as are necessary to exhibit the real views of the powers then at war, their cabinet intrigues and designs on the United States. To effect this, it would

<sup>1</sup> The Jay treaty.

<sup>2</sup> Pickering Papers, xx. 414.

hardly be necessary to apply to the records in the office of State, as Governor Jay has copies, I believe, of all the principal papers. Some of them I have read, and have his permission to read the whole, for my private information.

I am the more anxious to avail myself of those documents, as I intend to devote a considerable portion of time, this winter, in developing the history and views of the French nation. I am convinced that they formed as early as 1792, the vast project of a general Revolution, and have since added to their views the design of Conquests as extensive as the Roman Empire, in the plenitude of the Greatness of her power. I am astonished, on running over the papers of 1792 and 3, to see how evidently this project appeared, and how little apprehension it has excited in America.

I submit to you the propriety and expediency of laying my request before the President. In the present posture of affairs, prudence will suggest the impolicy of irritation; at the same time there is no question, that the great mass of Citizens of the United States, are utterly ignorant of the *real views and character* of the French Government. In the case of further troubles with France, how are those steady and intelligent men, who constitute the yeomanry of our country, and who are its *strength* and *defense*, to know exactly the merits of the controversy, and to form a just estimate of that nation, without being informed of the Cabinet transactions of France from the beginning of our Revolution? It is beyond a question, in my mind, that the *French Strength* in our country, rests principally on a *general ignorance* of the views of that nation.

From Great Britain, I see no reason to fear. The vexations suffered from her Cruisers on the seas, (which indeed are provoking enough) will be the amount of what we are to apprehend from her. The Government treats ours with respect, and I believe no nation on earth but the French attempts to excite disaffection to the government, in every country where her citizens are permitted to reside. With great respect, I am, etc.<sup>1</sup>

NEW YORK, May 22, 1797.

SIR,— Your favor of the 19th is duly received, and the paper requested enclosed. I have first taken an attested copy of the original French of Mr. Jefferson's letter to prevent accidents.<sup>2</sup>

I believe the translation I have given and which you have seen in the papers, will be found substantially correct. It is possible some

<sup>1</sup> Pickering Papers, xx. 419.

<sup>2</sup> Jefferson's letter to his friend, Philip Mazzei, dated April 24, 1796. Jefferson complained to Madison that the letter had suffered in translating, and much political capital was made of it by the Federalists.

errors might have crept into the letter, on its first translation into Italian or French from the original. I presume the word "legislature" is thus improperly used for Constitution or Government, as I have translated it—as the original makes the *judiciary* a branch of the legislature. I am, etc.<sup>1</sup>

NEW YORK, May 30th, 1797.

SIR,—The paper containing Mr. Jefferson's Letter to M. Mazzei, makes part of a file belonging to a Mr. Jones, a friend of mine, who has this day called for them. If you have no further use for it, I will thank you to send it to me. Perhaps you will think it prudent to take an attested copy.

I wish to know, Sir, whether the translation made from the French into the Minerva,<sup>2</sup> has done Mr. Jefferson any injustice. If so, a fresh and authentic translation will set all right with the public. I presume there is no longer any doubt of its genuineness. I am, etc.<sup>3</sup>

NEW YORK, July 2, 1797.

SIR,—In my absence, a letter from you was received at our office and opened by the Company.<sup>4</sup> I thank you for the public business, and trust it will be done to your satisfaction.

I have advertised for Colden's History,<sup>5</sup> as I want a copy for myself, and trust I shall be able to procure one for each of us.

I will thank you to write hereafter to the *Company*, on business of the office, as I do not allow Mr. Hopkins to open my letters, and I do not attend at the office in person. I find it necessary to rid myself of office drudgery, to devote my time to my other duties as Editor. Private business please to direct to *me*, and I shall esteem it a pleasure to serve you.

Can you without trouble send me a Copy of the History of the U. States No. 5,<sup>6</sup> advertised in Feno.<sup>7</sup> Mr. Hamilton and myself wish to see it, and *one* copy will answer for both, as by the advertisement we see it contains downright lies. I am, etc.<sup>8</sup>

<sup>1</sup> Pickering Papers, xxi. 127.

<sup>2</sup> The federal organ in New York, of which Webster was the editor. The first issue was made December 9, 1793.

<sup>3</sup> Pickering Papers, xxi. 137.

<sup>4</sup> The Minerva Company, Hopkins being the business head of it.

<sup>5</sup> Cadwallader Colden's "History of the Five Indian Nations," first issued in 1727.

<sup>6</sup> James Thomson Callender's "History of the United States for 1796." The fifth part contained the charges against Hamilton which called out his "Observations on certain Documents contained in No. v and vi of," etc.

<sup>7</sup> John Feno, editor of the "United States Gazette."

<sup>8</sup> Pickering Papers, xxi. 162.

NEW YORK, July 7, 1797.

SIR,—I thank you for the pamphlets, not that they are worth anything, but because the sending them has caused you some trouble and is a proof of your readiness to oblige me. Colonel Hamilton has reason to be angry, and expresses some intention of pursuing the authors. The lies told about *me* are too inconsiderable to rouse resentment. But I believe such a pack of scoundrels as our *opposition* and their *creatures*, was never before collected into one country. Indeed they are the *refuse*, the sweepings of the most depraved part of mankind, from the most corrupt nations on earth.

I enclose you Colden's History, which please to accept from me, and believe me, etc.

P. S. The late discoveries of PATRIOTISM and the attempt of one Keeler to abscond, occupy our attention. We want to know the whole truth.<sup>1</sup>

NEW YORK, September 20, 1797.

SIR,—Mr. Taylor<sup>2</sup> informs me that you have answered the Chevalier's Letter, and that your answer is in the press. Will you be good enough, Sir, to send me a Copy, as soon as it is published. I suppose it will appear in the papers, and I wish to be early in giving it to my Subscribers. With much respect, I am, etc.<sup>3</sup>

NEW YORK, September 23, 1797.

SIR,—I thank you for your letter of the 21st and the inclosures. I have read your Answer to the Chevalier, with pleasure and satisfaction. I never had but one opinion on the points of Controversy, and it is evident, that the French and their creatures in this country *contrive* subjects of controversy, precisely as they do in Europe, when they mean to come to an open rupture with a state. In this manner, the French in Italy have, I say it on good evidence, *occasional*ed the violences and disputes, which were intended as *pretexts* to apologize for war, and the revolutions they had projected.

I have called on Mr. Cox,<sup>4</sup> the Gentleman who left New Orleans in August. He informs me that he saw Mr. Ellicott,<sup>5</sup> July 24, who told him, that he expected to be put in possession of the posts very soon.

<sup>1</sup> Pickering Papers, xxii. 173.

<sup>2</sup> George Taylor, Jr.

<sup>3</sup> Pickering Papers, xxii. 251. It is endorsed by Pickering: "Answered 20. Sent him the letter to Yrujo, informing him it was not published, and it was only for the private information of himself and friends, etc. etc." See "Life of Timothy Pickering," iii. 405.

<sup>4</sup> Daniel William Coxe, a brother of Tench Coxe.

<sup>5</sup> Andrew Ellicott, commissioner under the treaty with Spain, October 20, 1795.

But Mr. Cox tells me, *he* does not believe the event will take place.<sup>1</sup> He saw and conversed with the Baron de Carondelet,<sup>2</sup> and with Governor Gayoso.<sup>3</sup> They appear to be friendly enough to the United States; but declare that the grant of a free navigation of the Mississippi to the English in the American Treaty, is the main obstacle to a fulfilment of the treaty by the Spanish Government. (It is strange that men of common understanding should lay stress on a point which you have refuted, but which on the face of the Treaties, of 1763 and subsequent, is utterly absurd.)

Mr. Cox tells me, Captain Guion,<sup>4</sup> with his detachment, passed New Madrid, when he was going down, with drums beating and colors flying. He thinks there has not been a good understanding between the Baron [Carondelet] and Gayoso,<sup>5</sup> on the points in dispute. Indeed he speaks of it with certain knowledge. This may account for some contradictory orders and indecision among the Spanish Officers at different posts. Mr. Cox heard nothing of Blount's affair<sup>6</sup> in that country, nor until he arrived in New York. By which it appears that it is not a subject of conversation among the Spaniards. It seems that the people had surrounded the Governor's house, but were easily diverted from any acts of violence. All is quiet.

Such are the scraps of information I have obtained from an intelligent Gentleman, but who appears to have no official information. He brought dispatches to the Spanish Minister, which may contain further information.

I have cast my eye over the answer to Pastoret.<sup>7</sup> It is a proof, either of a direct communication between our Jacobins, and the writer, or of a common spirit appropriate to Jacobinism all over the world. It is hard to say which to admire most, this writer's ignorance or his malevolence.

We hardly know what charge to make for publishing the laws of the United States. I had supposed the charges of other printers were made by the square, but Mr. Fenno tells me, not. The charge is made by the page in the printed copy of the Laws. Will you, Sir, be good enough to give me the rule or practice? It will oblige, Sir, your most, etc.<sup>8</sup>

<sup>1</sup> For difficulties raised by the Spaniards, see Gayarré, History of Louisiana, III. 366.

<sup>2</sup> François Louis Hector, Baron de Carondelet.

<sup>3</sup> Gayoso de Lemos, governor of Natchez.

<sup>4</sup> Captain Guion, sent by General Wilkinson to take command at Natchez. Gayarré, III. 391.

<sup>5</sup> In the fall of 1797 Carondelet left for his new post at Quito, and was succeeded by Gayoso, who was installed in office August 1, 1797.

<sup>6</sup> The so-called conspiracy of United States Senator William Blount.

<sup>7</sup> Claude Emmanuel Joseph Pierre, Comte de Pastoret.

<sup>8</sup> Pickering Papers, xxii. 257.

NEW YORK, October 31, 1797.

SIR,— Inclosed is a letter which came to me from Mr. [Rufus] King, who says not a word on the subject, nor what he sent it for. If authentic, it is of importance, as throwing light on late Conspiracies. It probably is; but I find that the date is July, 1793, and the writer speaks of a letter written to him by General [George Rogers] Clarke, of the *second of February*, if I understand it. But Genêt did not arrive in Charleston till March. This puzzles me, and I request an explanation. I will thank you to return me the letter, with your opinion of its authenticity, and how it was obtained.

I send you also a full state of the questions relative to the Decree of March 2d, and the Role of Equipage. If you have not seen it, you will be pleased with it. I may want it again; if so, I will write for it.

I here take the liberty to suggest my own opinion, that the passport furnished for our vessels is quite incomplete; and I have communicated this opinion to Mr. Wolcott. You will see what I say in the paper. I do not express my opinion *fully* to the public; but I have examined the subject closely; and I am persuaded, that the Role of Equipage is required by the Treaty to be deposited in the Custom house, and such deposit should be certified in the passport. The Passport is the only evidence of that deposit which the French can require of Masters of vessels; still for greater safety, I would have every vessel take an attested copy of the Role. There is one important reason for the list of passengers—our vessels are prohibited from carrying the enemies of France, if *military men in actual service*. How can this be known, unless the passengers are registered? I submit this to the government. It is a matter of infinite consequence, for the regular papers may not prevent the seizure and vexation of our vessels by a piratical Government and its agents, yet they will charge the underwriters, and perhaps hereafter procure indemnification of the French nation. The merchants are anxious on the subject and wish something might be immediately done. I am, etc.<sup>1</sup>

PICKERING TO WEBSTER.

TRENTON, November 1, 1797.

SIR,— I have this morning received your letter of yesterday with the paper sent you by Mr. King. I presume it is genuine. I have received two copies of it from General Pinckney, and as the General forwarded several of his letters thro' Mr. King, open for his perusal, I conclude he took the copy transmitted to you, which I now return. I have compared it with my copies, they all agree in the date of General Clarke's letter, the 2d February, and as all of them were

<sup>1</sup> Pickering Papers, xxi. 328.

undoubtedly transcribed from one copy sent from Paris, the error may have been in this.<sup>1</sup> One of General Pinckney's copies of Genêt's letter is dated 12th July, 1792, instead of 1793. Perhaps the Parisian copy might have *le deux d'avril* badly written, which then might easily be mistaken for *fevrier*. But if Genêt arrived at *Charleston* not till *March*, how could General Clarke have heard of his arrival, and have written him so early as the 2d even of April? I ask another question. What could have induced General Clarke to open a correspondence with Genêt at all? In answer, I ask further, whether some secret French Agent was not employed before Genêt's arrival, to tamper with the Western people relative to the conquest of Louisiana? Or if there were no such overtures, may we not conjecture that the project originated with the Kentuckians, who had been so long weary of the yoke imposed by the Spaniards on the Mississippi, and that their resentment, their interest, and their attachment to the French, then so nearly universal in America, prompted them to suggest the idea to the *French Minister* in Philadelphia as early as February 2d, 1793, and that this minister (*Ternant*) going out of office, prior to its arrival, the letter fell of course into the hands of Genêt, who would then naturally say, "*que vous m'avez écrite*"? Perhaps too the letter was not directed to *M. Ternant*, but generally to the *French Minister* in Philadelphia. Beyond a doubt, considering Genêt's vivacity and eagerness, he would answer the letter with the least possible delay; hence I conclude that Clarke's letter did not reach him till the beginning of July; and hence that it was written to the *French Minister*, without any knowledge of Genêt; or that the date has been miscopied, and that it was not written in February or even in April, but at a later day. The medium thro' which Genêt's letter came to me, its stile, and the project itself which we know was fostered and in a train of execution, leave no room to doubt its authenticity. The Colonel Fulton<sup>2</sup> of Kentucky, who has been long and repeatedly in Paris, has been soliciting the pay promised to Clarke and his officers. What use should be made of this discovery is another question. As it relates to a measure so long since frustrated, I am inclined to think it neither necessary nor expedient to publish it.

I received last evening half a dozen copies from Havre, of the observations concerning the American ship *Juliana*,<sup>3</sup> carried in there as

<sup>1</sup> See "Correspondence of Clark and Genet" in Report of American Historical Association, 1896, i. 930, and the "Correspondence of French Ministers to the United States, 1791-1797," edited by Frederick J. Turner, in the report of the Association for 1903.

<sup>2</sup> Samuel Fulton.

<sup>3</sup> A vessel of this name, Captain Hayward, was captured, in 1796 or 1797, on her voyage from Hamburg to Baltimore by a prize brig belonging to Commodore

a prize; and therefore return immediately the one you were so good as to send me.

I presumed the Treasury had given instructions about the rôle d'*equipage* in literal conformity with the terms of the passport. I suppose nothing more can be done until Mr. Wolcott's return to Philadelphia. I have been very unhappy that we so long omitted to prescribe the form of this rôle and give instructions to the Collectors; altho' I considered the want of a rôle d'*equipage* no more a just cause for condemnation, than the want of a sea letter, on which some of the first condemnations took place in *France*, before their unprincipled government thought of the rôle d'*equipage*: and that other clear proofs of neutral, and especially of American property, ought to be admitted on supplying the want of those two papers, the direct and important object of which, or rather of the sea letter, (for I do not agree that the part of the form of the passport in the English language, if the French is less definite, requires a rôle d'*equipage* to be on board) was to save our vessels from the delays and injuries arising from being turned out of their course, and carried into port. As soon as Mr. Wolcott returns we will see what has been prescribed; and if an amendment or addition appears necessary, give instructions accordingly. I am, Sir, very respectfully yours.<sup>1</sup>

TIMOTHY PICKERING.

NEW YORK, November 2d, 1797.

SIR,—I have received yours covering the pamphlet from Havre and the Letter of G[enê]t. I think it far from improbable that your last conjectures about the date of Clarke's letter are right. And let me add another idea. This project might not have been unknown in France before Genêt sailed, and this was perhaps the reason of his going *first to Charleston*. If so, we develope the insidious designs of the Revolutionary Government, as they by their agents, planned an invasion of Spanish Florida, long before war was declared. More of the schemes of that government are yet to be unfolded.

Since I wrote you last, I have seen the Secretary of the Treasury [Wolcott], who insists on it that our passport in its present form is all that the Treaty requires. I confess he does not convince me. He says a great part of the *French form* in the passport, relating to entry of crew and passengers in the Custom house, is *surplusage* and a *dead letter*. This to me is unintelligible. Either the form as annexed to the Treaty is valid and binding in the whole or not at all. I see no ground to reason away a part of that paper. He says we have no

Barney, carried to Porto Rico, and there dismissed. Pickering probably refers to a subsequent capture.

<sup>1</sup> Pickering Papers, vii. 412.

Registry of Seamen. True; but in the time of war, the French have a right to take out of our vessels their enemies who are in actual military service. Now, what is [to] prevent, a vexatious Captain of a privateer from demanding of American Captains, *proof* that he has no such military men aboard? I confess, Sir, I differ from Mr. Wolcott, for almost the first time in my life. I do firmly believe, and I find some of our most respectable merchants of the same opinion, that the passport does *not* comply with the Treaty; and I do know, that some of our vessels have escaped seizure, by showing a Role, certified by some consul.

I am sorry to trouble you with my ideas, especially as Mr. Wolcott tells me I do not understand the subject. I know it is not my concern, but the multiplied losses of my fellow citizens, apparently for want of papers, hurts me. I am determined however to drop the subject. With great respect, etc.<sup>1</sup>

NEW YORK, November 3, 1797.

SIR,—I have received your Explanation of the Certificate or Passport, and think it is probably just; but it does not remove my objection, which is that the Role *must* be deposited with the Custom House Officer, to comply with the *spirit* and *letter* of the paper. It is not material whether the Captain is directed to *swear* that he will do a thing, or whether the form declares he *shall* do it. At any rate, on your own construction, a part of the requisitions of that paper are not complied with: Whether *essential* or not, it is not my province to decide; but I am free to declare that I *believe* many losses have been sustained for want of the *form* and the *role*; and in dealing with a piratical Government, governed by no steady principles even of *apparent* justice, it may be better to have more formalities than are required, rather than less. I conceive the papers called for by the French, might have been furnished originally by the Custom House without committing the Government. Indeed something of the kind has been done by the Secretary of the Treasury, and I believe with good effect. Your obedient servant in haste.<sup>2</sup>

TO JEREMY BELKNAP.

NEW YORK, January 4, 1798.

SIR,—I am pursuing the investigation of the origin of the plague and yellow fever, and am put to great inconvenience for want of books. I have a favor to ask of you. I wish for all the information that can be obtained from ancient writers on American affairs, relative to the

<sup>1</sup> Pickering Papers, xxi. 331; <sup>2</sup> 333.

epidemics in this country. I have Oliver's account of the pestilence at Nantucket, which I presume is sufficient on that subject. I have some account of the great plague which destroyed the Indians just before the arrival of the Plymouth Colony, from Captain Dermer's Letter in Purchas, from Prince's chronology, from Gookin's Collections and from Hutchinson. But I want much *Governor Bradford's* account of it, and any other which you can give me. From Gookin it is clear the disease was the Yellow Fever, but I want all the evidence extant as to the *nature of the disease*, the *year of its prevalence*, for Prince and Gookin differ, the *time of the year* when it *began*, *how long it raged* and *when it ceased*.<sup>1</sup>

Have you any accounts of other Epidemics, which have been fatal in our country, except what you have related in your history? If so you will oblige me by communicating them. Please to note the year of their beginning, their progress and ending. I am in a train to disprove the common doctrine of pestilential diseases. It will be demonstrated that *infection* is the agent of least consideration in propagating even the plague. With great respect, etc.<sup>2</sup>

NEW HAVEN, April 13, 1798.

SIR,—I thank you sincerely for your attention in forwarding to me a Copy of the Dispatches in print. My impatience to see them was great, and I hastened to read them.

I cannot say I am much *surprized* for I had watched the conduct of the Government of France very narrowly for three or four years, and had long ago made up my mind on its views as you may have perceived from the run of my published remarks. I have long conceived the leaders in that country to be as wicked as the Dispatches represent them.

I hope and trust the publication will have a salutary effect on our own citizens, the only thing really formidable to us being *disunion*.

I have long seen the French pursuing a *system* to render the whole earth tributary to them, and this system in America will certainly be resisted *with effect*. They may not attempt an invasion of this country, but in case of any fatal disaster to England, an invasion of America may not be improbable. The only thing that can *insure* us against that, is a *broad, firm and effectual system of defense*, by all parties *united*. This will spare us the dreadful alternative.

The enemies of administration have this spring made a violent assault on the steady union and patriotism of Connecticut. Secret meetings in all parts of the State were held in March to combine their forces, and

<sup>1</sup> See Webster's "Brief History," i. 176.

<sup>2</sup> Belknap Papers, iii. 20.

last Monday was the day of election. The result cannot be exactly known till May. But so far as can be learnt from particular towns, their efforts will end in exposing their imbecillity. The success and triumph of the advocates of our Government will be complete.

I date this at New Haven, where my family will in future reside. My living is derived from the papers in New York, the politics of which are still under my direction. This removal is the accomplishment of a purpose of many years standing — that of having an income which will enable me to pursue, with little interruption, my taste for science.

I expect to be in Philadelphia the last of this month. In the mean time I am, etc.<sup>1</sup>

NEW HAVEN, May 12th, 1798.

SIR, — I have just returned from Hartford where the election for the State is annually held in May, and where the principal characters are usually assembled.

I cannot describe to you, Sir, the spirit and indignation which is universally manifested at the conduct of the French Government and their partizans in this country. The late effort of a pitiful party to influence our elections, and put into Congress men of principles hostile to administration, has had a most auspicious effect. It has disclosed views which had been concealed from many unsuspecting men, and it has compelled the sober citizens of Connecticut, who have no wish to be involved in party disputes, but to obey the laws and be good citizens, to come forward and *take sides*. Never was so full an election. The usual number of votes for our Governor and Council, on former occasions, has been about 3000, on the present occasion the number exceeded 7000. In the choice of Governor and Council there was no division. In the ticket for members of Congress, the full strength of opposition will appear, and this will not be known till the next week, but it is not supposed that the number of votes mustered by the clubs, can rise above 500.

It is with pleasure I can say, not a whisper of opposition is heard in public in this State; and in private the voice of *objection* and *censure* is nearly silenced. I rejoice also that every man of reputable character in this state appears well informed on the subject of the ultimate views of France. People appear to have correct ideas of the intentions of the French Government and the tendency of their principles to destroy all the *pillars* of public peace and private safety. It is further the unanimous determination of the body of our citizens to put into office no man who is not known to be firmly attached to the *religious moral* and *political* institutions, from which we have hitherto derived our

<sup>1</sup> Pickering Papers, xxii. 125.

private blessings and political prosperity. To be *suspected* of disaffection will now throw *any man* in this State, into o[b]security.

Accept, Sir, my best wishes for your personal welfare, and believe me with great respect, Your obedient servant.<sup>1</sup>

NEW HAVEN, July 17th, 1798.

SIR, — You probably have attended to a paragraph in the Commercial Advertiser of July 5th, which contained some illiberal reflections on the English Nation. The paragraph was written, it seems, by a Mr. E. W——n,<sup>2</sup> a native of Plymouth County Massachusetts, now resident in New York. I knew nothing of it till two days after it was published. Mr. Hopkins admitted it, indiscretely, without adverting fully to its tendency; and the censure was of course thrown on me. In consequence of it ten or twelve Englishmen discontinued their papers. This is a trifle, that I value not a straw; but the violence of the resentment of the English in New York knows no bounds. They are determined to overbear all other influence but their own. They are intolerably insolent, and strive, by all possible means, to lessen the circulation of my papers, and my influence, which I believe to be considerable in the interior of our country. I am told that columns of Porcupine's paper<sup>3</sup> are filled with abuse against me, for what I am as innocent of as his King. Mr. Waddington of New York wrote me a line, to discontinue his paper, and sent it to New Haven. I wrote an answer which I supposed decent, but firm. He writes me to again that he has sent what he calls my *rude letter* to Porcupine to be published. This is uncivil and perfidious. The public are welcome to the letter, but he is no gentleman that takes such liberties with private correspondence.

The papers we publish have a very extensive circulation, and I am told by men of the first respectability, in Congress, and in the country, that these papers have been greatly useful to the public in the progress of the present troubles. Whether they flatter me or not, I do not know. One thing I know, I have been faithful to my principles and to my country, and I have a subsistence by my labors.

But the time is come when *aliens*, in the interest of foreign nations, are taking a lead in our politics, which to me is alarming. The English are determined to ruin my influence, if possible; for no reason, unless that I do not love England better than my own country: for I aver I never have treated their nation with disrespect.

But I will not long submit to be thus abused by the subjects of foreign nations. I shall withdraw my exertions for the support of government, and as I shall be its advocate in private, I shall only support

<sup>1</sup> Pickering Papers, xxii. 156.

<sup>2</sup> Elkanah Watson.

<sup>3</sup> William Cobbett.

it by my single suffrage. When *aliens*, assume such a tone and abuse honest faithful men, it is time for native citizens to retire and seek peace and quietness in more private occupations. I could raise a flame even now about the heads of the English, but it would be against the public interest. I therefore choose to retire, and be the victim of party rancor.

I have not the full means of subsistence, independent of the paper, nor shall I have, till my Institute returns to me in 1804. If I could find some decent employment, in the service of the United States, for a few years, I should be glad — an employment to which I am competent, and which I could exercise with credit to myself and utility to the public. A military life, I am afraid, would be too severe for my constitution, and I know of no civil office now vacant, unless the new Land Tax bill has created some. But if there should be any to which you think me equal, you would oblige me by mentioning me to the President. My wish would have been to continue in peace in my present situation, enjoying my scientific pursuits ; but the illiberal spirit of party too often interrupts my tranquility. Believe me, etc.<sup>1</sup>

NEW HAVEN, October 20th, 1799.

SIR,— I have read with some attention the Pamphlet from Mr. Cathalan,<sup>2</sup> which you have been so kind as to send me. The Consul is entitled to great praise for his labors to serve this Country, and our acknowledgements are due to the faculty in Marseilles and Montpelier, for the communications.

With respect to the merit of the work I must say, that although I would not relax, but improve the regulations for preventing the introduction of infectious diseases into our sea ports, yet I have satisfied myself that nine out of ten and more, of our pestilential autumnal fevers are the produce of our own atmosphere, and are not to be reached by Health Laws. In a few Cases, such fevers creep into towns by infecting causes, but if they are propagated *solely* by contagion, they may be easily arrested. Not such are the fevers which ravage our cities. They will occasionally occur in spite of human power ; and the more I investigate the subject of their causes, the less confident I am of success in the enquiry. I will challenge all the faculty in America to assign causes, consisting in visible and tangible substances, and as fast as they are assigned, I will disprove them by incontrovertible facts. In short, I can demonstrate that the principle which gives to fevers the pestilential quality, consists in the *insensible* properties of the atmosphere. But I cannot enter into detail. My Observations are in the press — the first

<sup>1</sup> Pickering Papers, xxii. 303.

<sup>2</sup> Stephen Cathalan, United States Consul at Marseilles, France.

volume is finished and the second, I trust, will be printed by the second week in November.<sup>1</sup> The world will have before it an immense number of facts, and a theory altogether new resulting from the facts.

I will only further observe here, that the alarm in Europe respecting the contagion of Yellow Fever, is likely to prove a most serious evil to our trade; and it is certainly ill founded. Neither that fever, nor its sister malady the plague is ever propagated by goods, wares, and merchandize. Seamen and their cloths and bedding are all the articles that are to be feared, together with the hold and cabin of ships, and these are infinitely less to be feared than is commonly supposed. By an infallible criterion, derived from the character and phenomena of diseases, we are able to determine that every epidemic must *necessarily* originate in the place where it exists. This discovery is perhaps new.

I enclose you, Sir, the title page of my History, for the purpose of securing the Copyright, and request you will be pleased to forward to me a Certificate of this deposit. If any fees are to be paid, please to deduct them from the account due to E[benezer] Belden & Co.<sup>2</sup> And will it not be convenient, Sir, to forward to them the ballance? The fever suspends all our Collections of money for two or three months. I am Sir, etc.<sup>3</sup>

NEW HAVEN, March 3d, 1800.

SIR,—I trouble you with this line, for the purpose of obtaining from you, if possible, some information, relative to the papers of General Washington bequeathed to Judge Washington.<sup>4</sup> I presume those papers contain the best Materials for a history of the American Revolution, and the necessary materials for a narrative of his life. The Life of General Washington will comprehend a summary account of the Revolution and the establishment of the present government. It must be extremely interesting, and ought to be written by a man of eminent talents, and judgement, who holds a good pen — qualifications much above my pretensions. But I have one advantage for undertaking such a work — my leisure. I have an income that, I trust, will support me in an uninterrupted pursuit of science, and I have seated myself here with that view. I know of no other man, in this country, who enjoys, at present, the same advantage for making use of the papers left by General Washington. I shall mention this idea to no one but yourself, until I have your opinion. I know not that I could obtain the papers, if I should apply for them ; and I shall not apply for them, nor would I have the subject mentioned, unless after

<sup>1</sup> "A Brief History of Epidemic and Pestilential Diseases," Hartford, 1799.

<sup>2</sup> Webster's publishers in New York. Belden was his nephew.

<sup>3</sup> Pickering Papers, xxv. 251.

<sup>4</sup> Bushrod Washington.

suitable enquiries, it should be deemed advisable. The subject is interesting to the family, to this country and to the world; and I would not expose myself to Censure, by an ill judged application. I am in no want of the employment, as a means of subsistence; but if I had the materials, it would be my great pleasure to make the best use of them, that my abilities would permit. Should you see any objections to this project, that are of weight, please to say nothing on the subject; but return me this letter. I rely on your steady friendship, and am with high respect, etc.<sup>1</sup>

NEW HAVEN, December 17, 1808.

SIR,—I have received your favor of the 12th with the inclosure, for which please to accept my particular thanks. I had the day before received one from Mr. Hillhouse,<sup>2</sup> and I will thank you or him to send me Mr. Giles's.<sup>3</sup> The views you have respectively taken of the embargo and its effects, are strikingly just, in my apprehension, but will avail little in opposition to predetermined system, or violent party spirit. I hope however your speeches will be extensively published, and that in the country, they will have some effect. I hope the opposers of Mr. Jefferson's plans and measures will be tranquil, and leave the *measures* to have their natural effect upon the public. Passions are increased and opposition rendered more violent and fixed by a collision of opinions. The federalists will do all they can to arrest the progress of bad measures, in transitu, but I think they had better be moderate in their opposition to them when passed. Such measures *must in time* work a cure. The evils we must suffer will be beyond calculation, but we had better submit to them, than not to be cured.

In regard to the facts respecting the Report on Weights and Measure,<sup>4</sup> I well recollect that I had been informed, many years ago, that Mr. Jefferson was indebted to Dr. Kemp,<sup>5</sup> of Columbia College, for the mathematical calculations. The fact was stated in my paper, if I do not misremember, and Dr. Kemp called upon to contradict the statement, but he never did. Of these facts I have a pretty distinct recollection, but I could not easily turn to the paper, nor can I affirm that my information respecting Dr. Kemp's agency in that Report, was correct.

If I recollect right, the idea of regulating weights and measures by a pendulum, was first suggested in the First Volume of Transactions of

<sup>1</sup> Pickering Papers, xxvi. 45. The task was performed by Chief-Justice Marshall.

<sup>2</sup> James Hillhouse, senator from Connecticut.

<sup>3</sup> William Branch Giles, senator from Virginia.

<sup>4</sup> Jefferson's report, made in 1790.

<sup>5</sup> John Kemp. No letter from or to Kemp is in the Jefferson Papers.

the Society for promoting the Arts, Agriculture, etc.—an English Work, with which you are doubtless acquainted.

I will thank you to make my respects to Mr. Hillhouse, and my acknowledgements for his communications. I shall be much obliged by the communication of the more interesting speeches, and also of such Reports as contain valuable *facts* for preservation, as the Exports and Imports, etc. I have the honor to be, Sir, very respectfully your obedient servant.<sup>1</sup>

To [GEORGE GIBBS?] <sup>2</sup>

NEW HAVEN, July 24, 1837.

DEAR SIR,—I have just received yours of the 29th ult., and the accompanying letters of Mr. Wolcott, and copies of certain letters of my own to Gov. Wolcott.

I cheerfully consent to your publishing all the letters of mine, except that of September 17, 1800. The publication of that, at this time, would be premature, even if it should be proper ever to publish it. The sons of the persons alluded to are living, and if the letter should ever be published, I wish it not to be done at present. Indeed, I rather wish it to be suppressed or returned to me, during my life, as I am doubtful whether the opinions I expressed in regard to one Gentleman were correct. This doubt arises from facts which were not disclosed till after the date of the letter.

I have Gov. Wolcott's letter to me, requesting my affidavit respecting Mr. Genêt. This also contains some account of the fever then raging. If you have not a copy, dated Philadelphia, September 19, 1793, I am willing to send this to you. It seems to be proper that it should precede the affidavit.

I have no recollection of the facts respecting Col. Pickering's vindication, nor whether any was offered to the public.

One thing I can affirm with confidence, that I have never known a man of more stern integrity, than Col. Pickering. In this respect I place him in the ranks of Gen. Washington and Gov. Jay.

There are two sons of Col. Pickering living in Boston, both I believe, eminent jurists.

As I have no transcripts of my own [letters I will] thank you to permit me to retain those [you have] sent me.

I was an intimate friend, classmate, and for some months roommate with Gov<sup>r</sup> Wolcott. My acquaintance was of nearly sixty years dura-

<sup>1</sup> Pickering Papers, xxviii. 402.

<sup>2</sup> Editor of "Memoirs of the Administration of Washington and John Adams," 1846. The original of this letter is in the collection of Grenville H. Norcross.

tion. I found him always frank and faithful in friendship, and generous to the extent of his means. He was in College a good scholar, though not brilliant. He possessed the firmness and the strong reasoning powers of the Wolcott family, but with some eccentricities in reasoning. During the interesting period of Gen. Washington's administration, we were generally united in political opinions, although I thought then and still think that some of the gentlemen at the head of affairs were too much afraid of French policy to permit them to show a proper spirit toward the invasion of our maritime rights and our commerce by Great Britain. Yet our situation presented great difficulties to the administration, and probably whatever was done, was on the whole, best for the country. I am, etc.

P. S. It is probable that there may be among Gov. Wolcott's papers other letters of mine, but probably of no public importance. I wish not to have anything of mine published without my consent; as I rarely have kept copies, so that I cannot recollect on what occasions I have written. In the Life of Gov. Jay, some letters of mine were published, without consulting me — a very reprehensible license.<sup>1</sup>

Excuse my scrawls — I cannot copy, and have no person to write for me.

#### TO EBENEZER SMITH THOMAS.

NEW HAVEN, July 29, 1840.

Mr. THOMAS,

I see in the sheets of your Reminiscences which you have been so good as to send for my perusal, that you have mentioned the electric effect which the oration of Mr. Hancock, March 5 1774, had upon the audience. This reminds me of an anecdote related to me by the late Judge Trumbull of this State.

In the year 1774, Mr. Trumbull was a student of law in the office of John Adams. Mr. Hancock was, at that time a wavering character; at least he was so considered by the leading whigs of that day. It was a matter of no small importance to bring him to a decision, as to the part he was to take in the crisis then approaching. To effect this object, the more stanch leading whigs contrived to procure Mr. Hancock to be appointed to deliver an oration on the anniversary of the Massacre; and some of them wrote his oration for him or a considerable part of it. This policy succeeded and Mr. Hancock became a firm supporter of the American cause. Judge Trumbull related to me these facts, as from his personal knowledge; & no person will question his veracity.

<sup>1</sup> Jay, Life of John Jay, II. 358, 421.

I have another anecdote, derived from the late Hon. Nathan Strong of Hartford, and coming to me through the Hon. Elizur Goodrich.

When the question of taking arms to resist the claims of Great Britain was to be decided in Connecticut, the legislature held a secret session, & debated a question the whole day. The result was in favor of resistance; & it is said the most influential character in deciding the question was the Hon. Titus Hosmer, the father of the late Chief Justice Hosmer of Middletown.

I give you these anecdotes, as I have received them; & if you deem them of any value, they are at your service. I am, Sir, etc.<sup>1</sup>

In submitting the first form or draught of Alexander Hamilton's report upon the constitutionality of a National Bank, Mr. FORD said:

On February 16, 1791, Washington sent to Hamilton the objections raised on constitutional grounds, by Jefferson and Randolph, to an act recently passed by Congress and awaiting the signature of the President, for incorporating the subscribers to the Bank of the United States. One week later, on February 23, Hamilton laid before the President his completed reply to the objections made against the measure, a measure which had been prepared by Hamilton himself, and in the success of which he was deeply interested. Washington adopted his ideas, and the act became a law.

The draught, now printed for the first time, is in the Hamilton Papers, in the Library of Congress. It shows many important differences in details, illustrations and arrangement from the final report, and offers not a little light upon the manner of Hamilton in preparing his state papers. It is incomplete, and is marked by many evidences of haste; but it contains paragraphs which express in greater fulness than were published the grounds of his conclusions. To enable the reader to make a comparison with the final form,

<sup>1</sup> From Mr. Norcross's collection. It was printed in Thomas's "Reminiscences of the Last Sixty-Five Years" (1840), II. 169, but is of sufficient curious interest to be included in this series of Webster letters. Thomas was a nephew of Isaiah Thomas, and seems to have possessed a share of the printer's love of personalities. In his book he states that "the then celebrated Rev. Dr. Cooper" wrote the Hancock oration, and adds, "but any man who ever heard Hancock address a public assembly, as I have, could not for a moment doubt his ability to write such an oration; the object was, to get him committed, beyond the hope of pardon, and that oration did it completely."

references are made to the "Writings of Alexander Hamilton" edited by Henry Cabot Lodge.

### THE CONSTITUTIONALITY OF A NATIONAL BANK.

[February, 1791.]

The Secretary of the Treasury has perused with great attention the opinions of the Secretary of State and of the Attorney General concerning the constitutionality of the bill for establishing a National Bank and proceeds to execute the order of the President for submitting the reasons which have induced him to view the subject in a different light.

It will naturally have been anticipated that in performing this task he must feel uncommon solicitude. Personal considerations alone, arising from the reflection that the measure originated with him would be sufficient to produce it. The sense which he has manifested of the great importance of the institution to the successful administration of the<sup>1</sup> department committed to his care, [and the serious and extensive consequences which he believes would attend the failure of the measure,]<sup>2</sup> do not permit him to be without anxiety on public accounts. But his chief solicitude arises from a persuasion that if the principles of construction which regulate the opinions of the Secretary of State and the Attorney General should prevail, the just and indispensable authority of the United States must receive a deep and dangerous wound. The future operations of the government must be fatally clogged. And it must in the end find itself incapable of answering the purposes for which it has been instituted.<sup>3</sup>

It has often been regretted by the decided friends of an efficient national government that Congress in the early stages of the revolution exercised the powers entrusted to them, with too sparing and feeble a hand. It is earnestly to be hoped, after so much has been done for retrieving the prostrate affairs of the Union, that no similar cause of regret may be again furnished.

It may be laid down as an incontrovertible position,<sup>4</sup> that all the powers contained in a constitution of Government, which concern the general administration of the affairs of a country, its finances, its trade, its defence, &c. ought to be construed liberally in advancement of the general good. This maxim does not depend on the particular form of

<sup>1</sup> At this point was written and stuck out, "more particularly under his charge, the conviction which he entertains that its failure will materially retard the appreciation of the public debt and the use of public credit and will be an occasion."

<sup>2</sup> These words were written in the margin.

<sup>3</sup> Lodge, III. 180.

<sup>4</sup> "Indisputable truth" was first written.

the government or on the particular delineation or demarkation of the boundaries of its powers, but on the condition of society, and on the *nature* and *objects* of government itself. The means by which national exigencies are to be satisfied, national inconveniences obviated, national prosperity promoted, are of such infinite variety, extent and complexity, that there must of necessity be great latitude of discretion in the selection and application of those means. It is essential to the public good that the power of providing for it should be commensurate with the diversity of circumstances by which it may be affected; and consequently that the authorities confided to the government should be exercised on principles of liberal construction.<sup>1</sup>

The Attorney General, admitting the rule here laid down, takes a distinction between a state and the Federal constitution, and thinks the latter ought to be construed with greater strictness because there is more danger of error in defining *partial* than *general* powers.

But if the *reason* of the rule is adverted to, it must be concluded that this distinction cannot be admitted. That reason is founded on the variety and extent of public concerns and public exigencies; a far greater proportion of which and of a far more critical and important kind are objects of National than of State administration. If therefore the supposition of greater danger of error be acceded to it could only operate as a prudential motive to caution in administering the powers of the National government not as a principle of *restrictive* interpretation.<sup>2</sup>

It will be shewn hereafter that the rule above mentioned has governed the various acts of Congress which have received the Sanction of the Chief Magistrate; and it is not to be doubted that every days experience will evince it to be indispensable to the prosperous conduct of the affairs of the Union.<sup>3</sup>

Another position equally incontrovertible is this — that though the Government of the Union does not possess complete and intire sovereignty in every respect, it nevertheless possesses sovereign powers [in a variety of respects,]<sup>4</sup> and these of a high and transcendent nature. Of these the most important are the power of taxation,<sup>5</sup> that of regulating commerce with foreign nations, between the several states and with the Indian tribes, that of making war and as incidents to it of raising, supporting and governing armies and fleets, and that of making

<sup>1</sup> Much compressed in Lodge, III. 181, 189. In the draught the following was inserted at this point, and struck out: "The only exception to this rule is of cases in which the security of private property and personal liberty is concerned."

<sup>2</sup> Lodge, III. 190.

<sup>3</sup> This entire paragraph was struck out.

<sup>4</sup> Words inserted in the margin.

<sup>5</sup> "Indefinite power of taxation" was first written.

treaties. If it were not evident that *government* and *sovereignty* applied to nations are *convertible* terms ; if the idea of sovereignty were not necessarily included in the powers which have been mentioned ; if it were requisite to confirm the position which has been advanced by proof, there is a clause in the constitution which would put the matter out of all doubt. It is that which declares that the Constitution, and the laws of the United States made in pursuance of it, and all treaties made or which shall be made under their authority shall be the *Supreme law of the Land*. The power which can create the Supreme law of the land, in any case, is doubtless sovereign in relation to such case.<sup>1</sup>

The plain inference to be drawn from this position is this, that in carrying into execution the powers vested in the national Government, it has a right to employ all the *means* which are fairly and truly calculated to effect the objects of those powers, in as full and ample a manner as can be done by any Government whatever ; or in other words it can do, *in relation to those objects* every thing which is not contrary to *limitations and exceptions<sup>2</sup> specified* in the constitution ; [or which is not in itself immoral or inconsistent with the ends of political society.<sup>3</sup>

This idea enters into the very definition of sovereignty or government ; and though that of the United States cannot do *all* that some other governments can do, it can do all that any other government can do *in relation to the objects* entrusted to its management ; except so far as there may be specified restrictions.]<sup>4</sup>

If this be not the true rule there is then no rule at all. It must become impossible to determine what can or cannot be constitutionally done. The legality of the means to be made use of in each case must be a subject of vague and endless controversy ; in which caprice and prejudice must have much greater influence than reason or principle.

To urge as an objection to this that "all powers not delegated to the U. S. by the constitution, nor prohibited by it to the states are reserved to the States or to the People" is to do nothing. This is only saying in another form that the United States<sup>5</sup> possess *no powers not delegated* to them ; a position alike applicable to all popular constitutions of Government and to that of each state equally with that of the Union. It resolves itself into this general<sup>6</sup> maxim that all government is a DELEGATION of power. How much is delegated in any case is always

<sup>1</sup> Lodge, III. 182.

<sup>2</sup> "Implied in the idea of sovereign power (authority), subject only to the" was first written.

<sup>3</sup> "Subversive of the personal rights" was first written.

<sup>4</sup> Written in the margin.

<sup>5</sup> The word "Congress" was first used.

<sup>6</sup> "Fundamental maxim of republican liberty" was first written.

a question of fact to be determined by the particular provisions of a constitution and by fair construction upon those provisions.<sup>1</sup>

It certainly will not be pretended that the proposition which has been quoted was designed to exclude the doctrine of implied powers. There is nothing in the manner of expression which indicates such a meaning and it is known that it was not the intention of it.

Hence no inference can be drawn from it against the position which has been deduced from the nature of sovereign power.<sup>2</sup>

To say that such things only may lawfully be done as are "necessary and proper" amounts to nothing. This is in truth only to say that all requisite and fit means may be employed; which brings the matter precisely to the issue of a right to do whatever is fairly and truly calculated to effect the objects of the powers vested in the government.

The Secretary of State has annexed a more strict sense to the word necessary which he considers as restricting the government to the employment of those means without which "the grant of the power would be nugatory." In this however, he is neither warranted by the grammatical nor popular meaning of the word, nor by considerations of political expediency, nor by the most obvious import of the clause which contains the expression, nor by the practice of the Government upon it.

Not by the grammatical sense, because this, in many, and in relation to political subjects, in most cases establishes the word necessary as equivalent only to *requisite* or *needful* or *conducive to*.<sup>3</sup> Thus if it should be observed "that it is necessary to Great Britain to maintain a good understanding with Holland"<sup>4</sup> this would only mean that the maintenance of that good understanding is a thing useful to her or conducive to her interests. It would not signify that it is *essential* or *indispensable* or *absolutely* requisite; [or a thing without which she could not exist or prosper as a nation.]<sup>5</sup>

Neither does such a signification accord with the popular use of the term. A man will say for instance "It is necessary that I should breakfast before I go to business." This would not mean that he *could not do* business without having first breakfasted; but merely that his habits are such as to render it *inconvenient* to him to enter upon the business of the day before he has made that meal.

Considerations of political expediency do not favour such a construction; because it tends to create a disability in the government to pursue measures which though highly useful may not be absolutely essential;

<sup>1</sup> Lodge, III. 183, 184.

<sup>2</sup> These three paragraphs were an insertion.

<sup>3</sup> "A particular end" followed, and was struck out.—Lodge, III. 187.

<sup>4</sup> "France to maintain her connection with Spain" was first used.

<sup>5</sup> Words written in the margin.

and of course abridges its power of doing good even in reference to the objects which are particularly confided to it.<sup>1</sup>

It must ever be a matter of infinite uncertainty when a measure is necessary in the sense in which the word is understood by the Secretary of State. Many very intelligent men have contended that all regulations of trade are pernicious. There are many in this country who now maintain that all extra burthens<sup>2</sup>

That construction does not consist with the most obvious import of the clause containing the expression. No person who should read it without an eye to any particular question that might give a byass to his judgment, but would be inclined to infer that it was intended to give latitude to the enumerated powers rather than to confine their operation. Placed at the end of them it is couched in these comprehensive terms: "To make *all* laws which shall be necessary and proper for *carrying into execution* the foregoing powers, and *all other* powers vested by the constitution in the government of the United States or *in any department or office* thereof."<sup>3</sup> The turn of the expressions as well as the familiar and popular sense of the words forbids a restrictive interpretation.

If it were proper to go out of the instrument into what passed in the course of the debates in the Convention, or even to resort to the minutes of that body, ample confirmation would be found of the sense<sup>4</sup> here contended for. But a recourse of that kind is not admissible. Nor can it be requisite. The clause itself speaks a language not easily to be mistaken. It is evidently designed to place on an unequivocal footing the power of the government to employ all the means *fairly relative* to the execution of its specified powers and to the fulfilment of the objects<sup>5</sup> entrusted to its direction.<sup>6</sup>

The Attorney General indeed concedes that no such restrictive effect ought to be ascribed to the clause; and defines the word necessary thus—"To be necessary is to be *incidental*, or in other words may be denominated the natural means of executing a power."<sup>6</sup>

*Inspection laws* As on the one hand the sense put upon the clause by the Secretary of State cannot be admitted to be just<sup>7</sup>

The practice of the government has contradicted such an interpretation. The act for the establishment and support of light houses, beacons, buoys and public piers may be cited as an example. This doubtless must

<sup>1</sup> The consideration of Jefferson's objection was compressed in the final form.—Lodge, III. 186, 187.

<sup>2</sup> This paragraph was not completed and was struck out. See p. 162, *post*.

<sup>3</sup> Lodge, III. 187.

<sup>4</sup> "Reasoning" was first used.

<sup>5</sup> "Most prosperous conduct of the affairs" was first written.

<sup>6</sup> These paragraphs were struck out. The second reappears later. The last paragraph is in Lodge, III. 190. See p. 162, *post*.

<sup>7</sup> This unfinished paragraph was struck out.

be referred to the power which respects the regulation of trade and it is certainly fairly relative to it. But it cannot be affirmed that it was *absolutely* necessary that provision should be made for this object by the National Government, or that the interests of Trade would have essentially suffered if it had been left upon its former footing; [or that the power of regulating trade would be *nugatory* without that of regulating establishments of this nature.]<sup>1</sup> All that can be said is that as such establishments relate to and are useful to trade, they were a proper object of the care of that authority which is charged with the trust of promoting its interests.

To affix the sense advocated by the Secretary of State to the word necessary would lead to infinite uncertainty. There are persons who maintain for instance that all regulations of Trade are pernicious. There are others who are of opinion that immunities which have been granted to certain branches of trade and the restraints which have been laid upon others are hurtful to the general interests of commerce. There are wide differences of opinion about the measures which are or are not necessary and proper to promote the navigation of this country. How shall it be determined what is *strictly* necessary? because it seems nothing else is to be supposed to be included in the power to regulate trade.

Nothing can better shew the fallacy of the doctrine espoused by the Secretary of State than some of the arguments which he makes use of to enforce it. One of these is that there are existing banks in some of the states which may serve the purposes of a National Bank, and therefore render the establishment of one unnecessary. Here the constitutional right of exercising a power is made to depend on certain arrangements which *happen* to have been made by particular states and which ere long may disappear.<sup>2</sup> Surely the rights and powers of a government cannot depend upon such fortuitous, casual and foreign circumstances. Surely a right to establish a Bank<sup>3</sup> which does not exist today, because institutions of that kind in which the Government has had no agency happen to exist, cannot be created tomorrow by their disappearance. Surely therefore a principle which turns on such an argument can not be just. [Take in here what relates to manner of construing Constitution.<sup>4</sup>]

The Attorney General indeed concedes that no restrictive operation is to be ascribed to the word necessary. He defines it thus: "To be necessary is to be *incidental*, and may be denominated the natural means of executing a power."<sup>5</sup>

<sup>1</sup> These words were written in the margin.—Lodge, III. 189.

<sup>2</sup> Lodge, III. 186, 187.

<sup>3</sup> "Cannot be less inherent in a Government" followed and was struck out.

<sup>4</sup> Words written in the margin.

<sup>5</sup> Lodge, III. 190. It is repeated on p. 161, *ante*.

But while on the one hand the construction of the Secretary of State cannot be allowed, it will not be contended on the other that the clause in question confers any *new* or *substantive* power. It is conceived to have been only intended to obviate the embarrassments which had been experienced under the confederation from the clause declaring<sup>1</sup> and to give an express sanction to the exercise of *implied* powers fairly *incidental* or *relative* to the declared ones. This, however, it is conceived, is equivalent to an admission of the proposition that the Government *as to its specified objects* where no restrictions are annexed to them has sovereign and plenary authority in some cases paramount to that of the states, in others coördinate with it. Indeed as has been remarked this principle seems inseparable from the idea of a legislative or sovereign power.

It is no valid objection to this principle to say that it might lead to an extension of the powers of the general government throughout the entire sphere of state legislation. The same thing has been said and may as justly be said with regard to every exercise of power by *implication* or *construction*. Wherever the literal meaning is departed from there is a chance of error and abuse. And yet an adherence to the letter of its powers would speedily arrest the motion of the government and destroy its utility. It is agreed on all hands that the exercise of implied or constructive powers is indispensable. Every act that has been past is more or less an exemplification of it. That which declares the Power of the President to remove officers at pleasure is a signal one.<sup>2</sup>

The truth is that difficulties on this point are inherent in the nature of the National Constitution which is founded on a division of the legislative power assigning certain portions of sovereignty to the Union and leaving the rest with the particular members. The consequence of this will be that there will be some cases clearly within the power of the National government, such as the right to lay duties on imported articles, some clearly not within its power, such as a provision to convey water by pipes through the city of Philadelphia for the accommodation of its inhabitants, which is a matter purely local; and there are others which will admit of room for dispute and difference of sentiment and in regard to which a reasonable discretion must be exercised.<sup>3</sup>

The position which has been stated does not assert that the National Government is sovereign in all respects, but that it has sovereign power to a certain extent; that is, as far as its specified objects extend.<sup>4</sup>

There is therefore always a criterion of what is constitutional and what is not constitutional. This criterion is the end to which the measure relates as a mean. If the end is one clearly entrusted to the

<sup>1</sup> An unfinished sentence. The preceding paragraph, somewhat changed, is in Lodge, III. 190, 191.

<sup>2</sup> Lodge, III. 191; <sup>3</sup> 191, 192; <sup>4</sup> 192.

National Govern<sup>t</sup>; and if the measure has any obvious reference to that end, and is not forbidden by any particular provision of the constitution, it may be deemed to be within the compass of the National authority. These are also these criteria which ought to have weight in the decision : Does the proposed measure abridge a pre-existing *right* of any state or of any individual ? If this question can be answered in the negative, it will always afford a strong presumption in favour of the constitutionality of the thing, and slighter relations to any declared object of the constitution may be permitted to turn the scale.<sup>1</sup>

Is any state competent to doing what is proposed to be done?

The objectors to this rule which has been stated may be confidently asked what other can be adopted ? What is there in the nature of things to render the declared powers in the national constitution less sovereign than the powers in the state constitutions ? What are the characteristics which distinguish the means that sovereign or legislative power may employ to attain an end within its acknowledged province from those which it may not employ ?

It is observable that both the Secretary of State and the Attorney General build their objections wholly upon a supposed inability in the National government to erect a Corporation ; and this not in the particular case only but in every case whatever. Indeed the Attorney General acknowledges "that if any part of the bill does either encounter the constitution or is not warranted by it, the clause of the Corporation is the only one."<sup>2</sup>

How it has come to pass that the power of erecting corporations has been conceived to be of so *peculiar* or *transcendent* a nature, as to form an *implied* exception to *every* power granted to the United States and in *every case*, is not easy to be conjectured and remains unexplained. Why it should not be as much as incident to legislative authority to erect a corporation, if a *necessary* and *proper*, or a *requisite* and *fit* mean to a given *end*, as to do any other thing, is, to say the best of it, not obvious.

Congress for example have power to *regulate Trade* with foreign nations. This power is not supposed to be confined merely to the prescribing of rules for the *orderly conducting* of Commerce between the United States and other Countries ; but it is agreed on all hands to extend to the adoption of proper measures for the advancement of Navigation and foreign commerce. To this end are various regulations in the revenue laws that have been passed. Let it be supposed that it were demonstrable that there was an opportunity for opening a particular branch of Trade with some foreign country, which would be highly beneficial to the United States ; but that in order to entering upon it,

<sup>1</sup> Lodge, III. 192; <sup>2</sup> 180.

it was absolutely necessary there should be a union of the capitals of a number of Individuals ; and that in order to engage proper persons to embark on it it was equally necessary that they should be incorporated and should for a time be permitted to enjoy certain peculiar privileges and exemptions — in such a state of things as this, can there be any reasonable ground of doubt that it would be within the *compass* of the general *power* of regulating commerce with foreign nations to erect such a corporation and to grant to it the requisite privileges and immunities ? It is apprehended that there cannot be any such ground of doubt.<sup>1</sup>

It would not be a good answer to say that such a case cannot be supposed. It is certainly a possible one. It has been believed to exist in other countries, and has produced institutions of the kind contemplated which remain to this day. The possibility of it is enough for the argument. It would doubtless be expedient to be well assured that the circumstances were such as to require and justify it ; but this would be a mere question of expediency not of right or power.

As far as the sense of the different state Conventions can be supposed to have weight in the question it will appear that there was a prevalent idea that Congress had power to erect trading companies or corporations. Hence is found among the amendments proposed by them generally a clause to this effect, "That Congress shall not grant monopolies nor *erect any company with exclusive advantages of commerce*" ; thus tacitly admitting the power of Congress to erect such Corporations or companies, and objecting no further than to the grant of *exclusive* privileges.

The existence of such a power is indeed a natural and obvious inference from that of regulating Trade.

Neither the Origin of the power of erecting corporations nor the practice respecting it in the country from which we have borrowed our notions of it are of a nature to warrant the conclusion that it is of so preëminent a nature as to lie beyond the reach of the powers of the United States.

Its *origin* is traced to the Roman empire where a *voluntary association* of individuals was alone sufficient to produce a Corporation. In England the power of erecting corporations forms a part of the executive authority, [and the exercise of it may even be delegated to that Authority to other purposes.]<sup>2</sup> Certainly then there is something not a little forced in the supposition that the whole Legislative power of the Union is *unequal* to incapable of it.<sup>3</sup>

The Secretary of State asserts indefinitely that the power of erecting

<sup>1</sup> Much compressed and altered in Lodge, III. 185, 220.

<sup>2</sup> These words are written in the margin.

<sup>3</sup> Neither term is cancelled in the ms. — Lodge, III. 186.

corporations remains exclusively with the states; but he certainly has not proved it. The arguments already adduced are sufficient, it is presumed, to shew that this is at least a very questionable position. But that it is not true in the extent in which [it] is advanced may be reduced to precise demonstration. And it is not doubted that in the progress of the investigation the contrary of it will appear more and more clearly.

Congress are empowered "to exercise *exclusive* legislation *in all cases whatsoever* over the district which shall become the seat of the Government of the United States and over all places purchased for the erection of forts, magazines, arsenals, dock yards and other needful buildings." By what process of reasoning can it be made a doubt that a power of exercising *exclusive* legislation *in all cases whatsoever* must include that of erecting a corporation within the limits which are embraced by it? There can be none.

Here then are cases in which it is certain that Congress may erect corporations. And if a direct power of instituting a Bank in other places is denied to the government, it has only to establish one at some place [over] which it may have acquired exclusive jurisdiction and the matter may be so managed as to have the administration of it where it shall be found most convenient. Doctrines which lead to consequences like these are at least to be suspected of error.<sup>1</sup>

There is indeed a case in which Congress have exercised the power of erecting a Corporation and that one of the most important kind; one not less important than the establishment of a Government. The "Act for the Government of the Territory of the United States south of the River Ohio" is here alluded to.<sup>2</sup> A constitution of Government is a corporation of the highest nature, and that act establishes one; proceeding as is supposed upon

If then it ought to be admitted that the Gov. of the United States has the power of erecting Corporations in cases relative to the objects entrusted to it, it remains to see<sup>3</sup>

the 2d. Clause of the 3d Section of the Constitution, which declares that Congress shall have power to dispose of and make *all needful rules and regulations* respecting the territory or other property belonging to the United States.

Let it now be seen what are the objections to the power of erecting corporations *generally*.

The sum of them as respects the Secretary of State seems to be that

<sup>1</sup> "Embraced with caution" was first written. — Lodge, III. 198.

<sup>2</sup> Lodge, III. 206.

<sup>3</sup> These lines are struck out. It would appear that the preceding paragraph originally ended with the words "establishes one," and what followed was an afterthought.

they contain capacities, properties or attributes; which are against the law of *mortmain*, against the laws of *Alienage*, against the law of *descents*, against the laws of *forfeiture* and *escheat*, against the law of distribution; and, as respects the particular institution contemplated, against the laws of *Monopoly*. And it is added to the rest that a power is given to make laws *paramount* to the *laws of the States*. Nothing but a *necessity invincible by other means* can justify, it is said, such a *prostration of laws* which constitute the pillars of our whole system of jurisprudence, and are the foundation laws of the State Governments.<sup>1</sup>

Let it be seen, how far these observations are correct, and what force they have.

The power of erecting Corporations is nothing more than that of giving *individuality* to a number of persons. When once this *individuality* is created, the *Common law of every state* annexes to it those *incidents* which produce the effects abovementioned as far as they really exist. It establishes that *Aliens* in the artificial capacity thereby created may hold lands, notwithstanding the laws of *Alienage*; that the lands shall be transmitted to the successors of the first corporators in the same *capacity*, not to the heirs of the individuals, notwithstanding the laws of *descents*; that the corporate property in case of the dissolution of the corporation shall revert to the donor, not to the sovereign, as in the case of a failure of heirs of private persons, notwithstanding the law of *escheat*; and that it shall not be forfeited for the crimes of the individual members, notwithstanding the laws of *forfeitures*.<sup>2</sup> All these circumstances too are mere consequences of the creation of an *artificial* person. The distinction between *citizen* and *alien* can only apply between real persons. Such an artificial person may have successors but can have no *heirs*; therefore the laws of descent cannot reach it, and, for the same reason, it is equally out of the reach of the law of *escheat* which relates wholly to a *failure of heirs*. An artificial person cannot commit a crime; therefore its property cannot be liable to *forfeiture*.

This shews that it is inaccurate to say that the erection of a corporation is *against* those *different heads* of the state laws. It is in fact only to create a certain *Artificial* or *legal entity*, to which the law of every state itself, annexes an *exemption* from the operation of the rules that fall under these heads, as being *inapplicable* to it. It is only to put a certain number of individuals with their own consent in a situation which subjects their property to a different regulation from that which would attend it if they had not consented to enter into this state.

But if the thing were not truly to be viewed in this right, if the creation of a corporation were really against those different heads

<sup>1</sup> Lodge, III. 192, 193; <sup>2</sup> 194.

of the state laws, if it really made an alteration in them or the particulars which have been mentioned, what would be the consequence of all this? Is it meant to be maintained that Congress can make alterations in no case in the state laws. If this is intended all the powers of the national government become nugatory. For almost every new law must be an alteration in some way or other of some other law either common or statute.<sup>1</sup>

There are laws concerning bankruptcy in several states. Several states have laws concerning the values of foreign coins. Congress are empowered to establish uniform laws concerning bankruptcy throughout the United States and to regulate the value of foreign coin. The exercise of either of these powers, by Congress, necessarily involves an alteration of the laws of those states; and in respect to bankruptcies in cases that affect real property and involve penalties of the highest nature.<sup>1</sup>

Again every person by the *common law* of each state may now export his property to foreign countries at pleasure. But Congress may without doubt in pursuance of the power of regulating Trade prohibit the exportation of commodities; in doing which they would certainly alter the common law of each state in abridgment of individual rights.<sup>2</sup>

This being the case it can never be good reasoning to say, the doing of *this* or *that act* is unconstitutional because it alters *this* or *that* law of the states. It must always be shewn that the thing which makes the alteration is unconstitutional in its own nature, not *because* it makes the alteration.<sup>3</sup> Hence an argument which makes that circumstance an objection to the constitutional right of exercising any power must be rejected.

Two things are advanced by the Secretary of State which are peculiarly incorrect. These are that the proposed incorporation is against the laws of monopoly and that power is given by it to *make laws paramount* to the laws of the states. As to the first the only part of the bill which can give colour to the suggestion is that which stipulates that the U. States will not erect any similar institution or grant similar privileges to any other. But does this prohibit any state from erecting itself a bank? Does it even prohibit any number of individuals from associating themselves to carry on the banking business? It does neither and consequently is altogether free from the charge of establishing a monopoly. The supposition of a consequential interference with the Banks of other states if founded would not make good a charge. For Monopoly implies a *legal impediment* to the carrying on of the Trade by others than those to whom it is granted.<sup>4</sup> Such an interference indeed might tend to

<sup>1</sup> Lodge, III. 194; <sup>2</sup> 194, 195; <sup>3</sup> 195.

<sup>4</sup> Lodge, III. 195. "That supposition however would be a forced one" followed in the ms., but was struck out.

prevent rather than to create monopoly by dividing the business; but whether any competition in this way will exist is altogether problematical.

The idea of the Corporation having power to make laws paramount to those of the states is still less colourable. Its bye laws or regulations from the nature of the institution can operate only upon its own members, can relate only to the disposition of its own property and will essentially resemble the private rules of a mercantile partnership. They are expressly not to be contrary to *law*, and law here must necessarily mean the law of each state as well as of the U. States so far as the former does not improperly contravene the latter. If there should be a repugnancy between any state law and that of the United States the Courts, as in every similar case, must decide on their respective validity. There may be questions between an interfering law of a state and that of the U. States, but there can be none between a law of a state and a law of the Corporation.<sup>1</sup>

The Arguments of the Attorney General against a power of incorporation in the National Government generally are to this effect.<sup>2</sup>

First, that it is not *expressly* given to Congress.

This is admitted. There is no clause of the constitution declaring in express terms that Congress may make corporations.

It was said upon this point in argument in the House of Representatives, that if a power of so transcendent a nature was meant to be conferred upon Congress it would have been expressly mentioned.<sup>3</sup>

But this idea of the transcendent nature of the power is all exaggeration. It has been seen that it is only to give *individuality* to a number of persons *voluntarily* associated for a particular purpose or to substitute an artificial to a natural capacity *person*.<sup>4</sup> It has been seen that in its origin a voluntary association of Individuals was capable of producing the effect without the help of a particular act of law. And that in England it is a part of the Executive authority.

The erection of a Corporation is plainly then one of those *incidental* things, one of those ordinary operations of legislation, one of those *mere means* to an *end*, which was best left to be implied as an *ingredient* in a general power. Particularly as there might exist prejudices on the point. And it was not prudent to encounter any by unnecessary specification.

Perhaps the best definition that can be given of a Corporation is this. It is a *legal person*, or a person created by act of law, consisting of one or more natural persons empowered to hold property or a franchise in *succession* in a legal as contradistinguished from a natural capacity. According to this definition, if the United States should declare that

<sup>1</sup> Lodge, III. 196; <sup>2</sup> 197; <sup>3</sup> 199.

<sup>4</sup> Both terms are retained in the ms.

all bonds for duties should be given to the Collector of each district by the name of the Collector of the District of A or B, and that every such bond should enure to such *Collector* and his *successors in office* in trust for the U. States, this would be to constitute a Corporation in each district ;<sup>1</sup> and it is presumed, that if it had been proposed to put the Collector of the duties in this train, however the expediency of it might be called in question, the constitutional right of doing it would never have been disputed.<sup>2</sup>

A still plainer case is this. Congress are empowered to establish post roads. Let it be supposed that it were to be resolved to establish a turn pike road through the United States under the direction of certain commissioners by a certain denomination to be appointed as other officers are ; and that certain funds, including a portion of *Western lands* should be vested in them and their *successors in office* to be disposed of for the purpose of defraying the expences of making this road — this certainly would be a corporation ; and can it be doubted that it is within the constitutional power of Congress to make such an arrangement. It is repeated that the expediency of doing it or not doing it is never a test of constitutional right ; for the consequence of such a principle would be that every inexpedient or injudicious measure which a government may adopt is unconstitution[al] an absurdity of the first magnitude.<sup>2</sup>

Again : The Western lands are pledged as a fund to sink the public debt. Suppose in order to render the application of the fund still more inviolable, by giving it the *character* and *sanction* of *private property* as has been repeatedly proposed by able men in Great Britain, and if rightly recollect, practiced upon in a late instance, it had been judged expedient by Congress to vest those lands in certain commissioners to be appointed as other officers, and in their *successors in office* to be disposed of and the proceeds applied to the redemption of the public debt, could any objection have been made to the constitutionality of the measure ? Certainly none, probably none would have even been thought of from the obvious futility of it. And yet here would have been most manifestly a corporation.<sup>2</sup>

Instances of a similar kind may be multiplied without number in which a natural construction of the powers of Congress would authorise the erection of Corporations as very simple *means* to the specified ends of the governm<sup>t</sup>.<sup>2</sup>

This is not an improper place to take notice of an observation made by the Secretary of State concerning the proposition in the Convention

<sup>1</sup> Lodge, III. 219.

<sup>2</sup> These four paragraphs were written on the margins of five of the ms. pages.

to insert specifically a power to make Corporations, which he uses specifically against the power.

What the precise nature or extent of the proposition was, or what the reasons for refusing it, is not ascertained by any authentic document. As far as any such document exists it only specifies *canals*. The recollections of individuals do not correspond either as to the *import* of the proposition, or the reasons for not adopting it. Some affirm that there was objection to granting power to erect corporations; others that it was thought unnecessary as being incidental to the powers granted and inexpedient to be specified as involving a new topic of objection; others that the purposes of it, being canals and obstructions in rivers, were thought irrelative to federal regulation. Thus stands the manner, and certainly in this situation there is no inference to be drawn from the fact.<sup>1</sup>

The Secretary of State also knows, that whatever may have been the true state of that fact it is of no weight in the question, that whatever may have been the intention of the framers of a Constitution, or of a law, that intention must be sought for in the instrument itself, and must be determined by general principles of construction applied to the tenor and objects of such instrument. Nothing is more common than for laws to express and effect more or less than was intended. If then a power to erect corporations is deducible by fair inference from the whole or any part of the constitution of the United States, arguments drawn from extrinsic circumstances regarding the intention of the Convention must be rejected.<sup>2</sup>

The power of making corporations not being expressly granted, the Attorney General proceeds to infer that it can only exist from one of three causes:

1. Because the *nature* of the *Federal Government* implies it; or
2. Because it is involved in some of the specified powers of legislation; or

3dly. Because it is necessary and proper to carry into execution some of the specified powers.

With regard to the first he argues that to be implied in the *nature* of the Federal Government would beget a doctrine so indefinite as to grasp every power.<sup>3</sup>

Let it be remarked in the first place, that neither of these propositions is precisely or substantially *that* which is relied upon here. This is that the right of erecting corporations is incident to *sovereign power*, not to the particular *nature* of the *Federal Government*. None of the reasonings of the Attorney General do therefore reach this proposition.<sup>4</sup>

But let it be supposed that he would consider the two propositions in the same light and that the answer which has been stated as given

<sup>1</sup> Lodge, III. 196, 197; <sup>2</sup> 197; <sup>3</sup> 199, 200; <sup>4</sup> 200, 201.

to the one is to be applied to the other. Then the answer to that is, that it is not true that the Doctrine would be so indefinite as to grasp every power. Because the qualification which has [been] stated to the Doctrine is that it must be *in relation to the objects confided to the government*. A *general legislative power* includes a *power* to erect corporations *in all cases* where they shall appear necessary or expedient to the legislature. A legislative power as to *certain objects* includes a power only to erect corporations in relation to *those objects*, not in relation to *other objects*. And therefore to contend that the legislative power of the U. States extends to the erection of Corporations in relation to the objects of the Fœderal Government does not imply a claim that it shall extend to things not relative to the objects of that Government. Thus a power to erect a corporation relative to *Trade* is not a power to erect one relatively to *Religion*. The first is a declared and leading object of the Regulation of the Fœderal Government. The last it has no power concerning.<sup>1</sup>

The object therefore is in every case as already remarked to test and characterise the proper exercise of the power. As reasonably might it be argued that a right to prescribe penalties for a breach of the laws of Trade is a right to prescribe penalties for violations of the laws of chastity.

The Attorney General after combating the first proposition relatively to the nature of the Fœderal Government which has been just examined in its *true sense* proceeds next to shew that the power of erecting corporations is not involved in any of the specified powers of legislation.<sup>2</sup>

In order to accomplish this, he makes an *enumeration* of the *particulars* which *in his opinion*, for *so only* it must be considered, are comprehended in several of the principal general powers; and excluding from this enumeration the *very particular in controversy* as well as many others that may be imagined and many more that no imagination can anticipate and that occasions only can suggest he fairly *begs the question*.

It is not meant to represent this as intentional. It is a natural consequence of attempting to try a general power which always includes an *infinite number of particulars* by a precise enumeration.<sup>3</sup> Every such enumeration must be more or less imperfect; because the human imagination is inadequate to the detail. [Even every particular that may be specified must be in itself a general that must include a vast variety of other particulars. The intent of this enumeration is *doubtless* to shew what is contained in each power and then to infer that the power of incorporation not corresponding with either of the specified particulars does not exist. The force of this conclusion must depend on the accuracy of the enumeration. The pointing out of inaccuracies and defects

<sup>1</sup> Lodge, III. 200, 201; <sup>2</sup> 201.

<sup>3</sup> "Try a power by a fallacious test" was first written.

must therefore destroy it.]<sup>1</sup> It was from a Conviction of this very difficulty that the Convention forebore to attempt such a specification.

A critical examination of the detail into which he enters would involve too voluminous a discussion. It will suffice to state certain palpable *defects* and *omissions*, some not equally palpable or certain but still probable ones. In the course of this to corroborate but [in] some new and particular view, the more general doctrines which have been advanced.

The first power descanted upon is that of laying and collecting Taxes, which indeed is the most accurately sub-divided.

One subdivision of it is "to prescribe the mode of Collection," an immense *Chapter* which involves a variety of details and among others the very thing in question. It includes the establishment of districts and ports; the creation of officers and the appointment of their duties, powers and *legal capacities*; modes of proceeding; exemptions, penalties, modes of prosecution and recovery; *species of money* in which the taxes are to be paid. And it may *legally* include the erection of a corporation charged with the Collection, upon certain conditions stipulated between the Government and them.

It has been already noted in what manner the Officers of the customs might be made a Corporation for the purposes of taking bonds and receiving the monies payable upon them. It shall be explained in another place how far the power of establishing the *species of money* in which the taxes shall be paid is connected with the institution of a Bank. It shall now be shewn that by a fair construction of the power of *laying* and *collecting* taxes a corporation may be instituted charged with the collection upon certain conditions stipulated with the Government.

It is a common practice in some countries and has been practiced in this, to farm particular taxes. This is to sell or mortgage the product of them to an individual or company for a certain specified sum, leaving the collection of it to that individual or company. Let it be supposed that it was *manifest*, that this mode of proceeding was in any case the most eligible to the government in the view of revenue, and equally convenient and safe for the citizens. Let it also be supposed that a number of individuals were disposed to undertake the matter upon condition of being incorporated. An incorporation, if a number of persons were concerned, would be a natural and a necessary ingredient in the arrangement. For it would be essential to the security of the undertakers that the property in the fund should be definitively vested in them and that they should have an easy method of recovering and managing the taxes, to which a corporate capacity would be indispensable. It must be extremely difficult to assign a reason why Congress might

<sup>1</sup> These words are written in the margin.—Lodge, III. 201.

not adopt this mode of Collection as well as any other, and might not as a necessary ingredient in it incorporate the undertakers. It would not be doubted that this might be constitutionally done by another government and why not by that of the United States which has as plenary a power of taxation as any in the world except with respect to duties on exports with these two qualifications shall all duties<sup>1</sup> that direct shall be apportioned according to a certain ratio of population.<sup>2</sup>

The next specification of particulars relates to the power of borrowing money, and is materially defective. It confines that power to three points — the *stipulation of a sum to be lent*, of an *interest* or no *interest* to be paid, and of the *time and manner* of repayment.<sup>3</sup>

A palpable omission strikes the eye at once, the *pledging or mortgaging* of a *fund* for the security of the money lent. Here is a common and in most cases an essential requisite which is overlooked.<sup>4</sup>

The idea of the stipulation of *an interest or no interest* is too confined. The *phrase* should have been to stipulate the *consideration* of the loan. Individuals often borrow upon considerations different from the payment of interest, sometimes in addition to it, sometimes independent of it. So may governments, and so they often find it necessary to do. Every one recollects the lottery tickets and other douceurs often given in Great Britain as collateral inducements to the lending of money to the government.<sup>5</sup>

There are also frequently collateral conditions not falling within any of the enumerated particulars. Every Contract for monies borrowed in Holland stipulates, that the sum due shall be free from all taxes and from sequestration in time of war, and mortgages all the lands and property of the United States for the reimbursement.<sup>5</sup>

It is also known that a lottery is a very common expedient for borrowing money, which is certainly not included under either of the specified heads.<sup>6</sup>

These things are mentioned to shew the defectiveness of the specification and that any argument built upon them against the power of erecting a corporation must be unfounded. It is reserved in the sequel to shew the relation between this power and the institution of a bank.

The enumeration respecting the power of regulating trade is still more defective and inconclusive.<sup>5</sup>

Here is a total *omission* of every thing that regards the Citizens of the United States, their vessels and Merchandise.<sup>6</sup>

1. The power of *prohibiting the exportation* of domestic commodities of which there cannot be a shadow of doubt, and which in time of war it would be necessary to exercise, sometimes temporarily in the

<sup>1</sup> Hamilton doubtless intended to strike out these last three words.

<sup>2</sup> Lodge, 111. 219, 220; <sup>3</sup> 201; <sup>4</sup> 201, 202; <sup>5</sup> 202; <sup>6</sup> 202, 203.

shape of an embargo, sometimes altogether, as with reference to naval and other warlike stores which might be wanted at home.<sup>1</sup>

2. The prescribing rules concerning the characteristics and privileges of an American *bottom* and the manner in which she shall be navigated, as to the composition of her Commander and Crew, what proportion of Citizens to foreigners.<sup>1</sup>

3. The prescribing of regulations concerning the contracting with seamen, the police of ships on their voyages, etc, as by the "Act for the Government and regulation of seamen in the Merchants service."<sup>1</sup>

4. The granting of bounties to certain species of vessels and certain kinds of Merchandise. This has been actually done in respect to dried and pickled fish and salted provision.<sup>1</sup>

There are other things which occur that appear to be within the power of regulating trade, though not as certainly as those which have been mentioned. These are:

1. The prescribing rules for the *Inspection* of commodities to be exported. Though the states individually are competent to this there appears no reason in *point of authority* why a general system might not be adopted for the United States.<sup>1</sup>

2. The regulation of policies of Insurance.<sup>1</sup>

3. The prohibition of *wearing* as well as importing foreign commodities.

4. The Regulation of salvage upon goods found at sea.

5. The Regulation of pilots.<sup>2</sup>

6. The Regulation of Bills of Exchange drawn by a Merchant in one State upon a Merchant in another.<sup>2</sup>

Hence as seen the imperfection of the enumeration under the second head and the impossibility of deducing from it any argument against the power of incorporation contended for, which leaves in full force the arguments that have been offered to shew that it exists particularly in relation to Trading Companies, which therefore ought to be classed as one of the particulars comprehended in the power of regulating Trade. The relation which it has to a Bank in particular is reserved to future discussion.

The last specification relates to that clause which empowers Congress to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the U. States.

The remarks here will relate less to the defectiveness in the enumeration of particulars than to some errors of reasoning.

The *institution* of a *Government* in the Western Territory is admitted to belong to this head of the powers of the Fœderal Government. Now to admit the right of *instituting* a *Government*, and to deny that of erecting a corporation appears to be a contradiction in terms. For

<sup>1</sup> Lodge, III. 208; <sup>2</sup> 204.

a Government, as already remarked, is a Corporation of the highest nature. It is a Corporation which can itself create other corporations.

How it could be imagined that the National Legislature could institute a government in the Western Territory, and could not erect a corporation for clearing obstructions in the Rivers which run through it, or for any other purpose there, confounds all conjecture. Or how it can be admitted that there is a power to *institute a government*, and denied that there is a power to erect a Corporation, requires to be reconciled.<sup>1</sup>

Here then by an express concession of the Atty. General is a power to erect a Corporation in one case at least; a power too which has in fact been carried into operation.

It is said that the property contemplated in the clause *may signify personal property* of the United States *however acquired*; and yet it is affirmed that it *cannot signify money* arising from the sources of revenue pointed out in the Constitution.

This opposition in terms is not remarked for the sake of any verbal criticism. It is only meant to make use of *what is conceded* to oppose it to *what is denied*.

The concession is that *property* in the sense of the clause, extends generally to *personal* as well as to real property.

The denial is that it extends to *money* raised by taxes, which therefore is to be considered as excepted out of the general term property, though comprehending personal property.

For this exception the reason given is, "That the disposal and regulation of money is the *final cause* for raising it by taxes." This reason, which is rather subtle and against the *letter* of the clause, must be combatted by reasoning that may perhaps itself seem to savour of subtlety and refinement.<sup>2</sup>

It would certainly be a more accurate and more just mode of expression to say "that the *object* to which money is intended to be applied is the *final cause* for raising it," than that the *disposal* and *regulation* of it is *such*. Now the *objects* for which the Constitution authorises the raising of money are *common defence* and *general welfare*. The actual *disposition* and *regulation* of it when raised are therefore the *steps* by which it is *in fact* applied to the objects for which it was raised. Hence therefore the money to be raised by taxes as well as any other personal property may be supposed to be comprehended within the meaning as they certainly are within the letter of the authority to dispose of and make all needful rates and regulations concerning the property of the United States, that is to say, for the purposes of the common defence and general welfare.<sup>2</sup>

<sup>1</sup> In much altered form in Lodge, III. 204.

<sup>2</sup> Lodge, III. 215, 216.

The terms *general welfare* are of very comprehensive import. They must necessarily embrace every object of general concern, whatever has a *general* operation, relating either to the general order of the national finances or to the general interests of Trade, Agriculture or manufactures.<sup>1</sup>

A case will make this plainer. Certain revenues are now established in relation to the public debt. Suppose the whole or a considerable part of this debt discharged and the funds now pledged for it, or a considerable part of them, liberated. In such a case the taxes might be repealed; and in certain instances it might be wise to do so, but in others it might be more wise to retain them, as the repeal might injure our own manufactures and industry. It would then remain to cause such a disposition as would consist with general utility or *general welfare*.<sup>2</sup> Here then would be money to be *disposed of* and *regulated* in the strictest sense of the clause.<sup>3</sup>

What then would there be in such a case to prevent, under this clause, the investiture of those monies in a Bank, if such an institution should appear calculated to promote the general welfare? Evidently the want of a power to erect a *corporation* would not be an obstacle. For, what is equivalent or more, the power to erect a *government* is admitted to exist and has been exercised under it.<sup>3</sup>

Hence it is evident, that under this clause alone a Bank may be erected. For as has been before remarked the existence of a constitutional power cannot depend on times and circumstances; unless the Constitution marks out the conditions on which it is to begin to exist.

Hitherto, except in this *last* instance, the arguments which have [been] used, have been designed to establish the general proposition that the Government of the U. States has power to erect Corporations in certain cases. This it is confided has been satisfactorily done, and all objections to it satisfactorily removed. And as all the Arguments of the Secretary of State and Attorney General are built on a denial of that proposition, as far as their objections are concerned there might be no necessity to proceed further.

But something more is proper to be done to satisfy the judgment of the President of the United States. It is desirable to illustrate still further that there is a power to erect such a *species* of Corporation as a **BANK** by shewing that it has a fair relation to some one or more of the specified powers.<sup>4</sup>

A few preliminary observations may be proper.

The proposed bank is to consist of an association of persons for the purpose of creating a joint capital to be employed chiefly and essentially

<sup>1</sup> This paragraph was struck out.

<sup>2</sup> This sentence was struck out.

<sup>3</sup> Lodge, III. 216; <sup>4</sup> 206.

in loans. There is no doubt that it is lawful for any number of individuals so to associate and dispose of their money or property. The Bank of New York is an example of this. That Bank is not incorporated. The Bill proposes in respect to the government that it shall become a joint proprietor in this undertaking ; that it shall permit the bills of the Bank payable on demand to be received in payment of its Revenues, and that it will not grant a similar privilege to any other Bank. All this is indubitably within the compass of the discretion of the Government. The only question is, has it a right to incorporate this company, the more effectually to enable it to accomplish ends which are in themselves lawful.<sup>1</sup>

Its power of making Corporations in all cases relative to its proper objects has been proved. Let it now be examined to which of those objects the proposed institution relates.

No person who reads with an impartial eye the powers vested in the National Government, but must be satisfied that it is intended by the constitution to vest it with all the powers necessary for what may be called the **ADMINISTRATION** of its Finances.<sup>2</sup>

It is authorised to raise *money* by taxes to an indefinite extent, to borrow money to an indefinite extent, to coin money, regulate the value thereof and of foreign coins, to dispose of and make all needful rules and regulations concerning the property of the United States and to pass all laws necessary and proper for carrying into execution those powers.<sup>2</sup>

It has a direct relation to the power of *collecting* taxes ; to that of *borrowing* money, to that of regulating Trade between the States, and, as a consequence of the two first, to that of raising, supporting and maintaining fleets and armies for the common defence. And it is clearly within the provision which respects the disposal and regulation of the *property* of the U. States as the same has been practiced upon by the Government.<sup>1</sup>

It relates to the collection of taxes in two ways, indirectly, by increasing the quantity of circulating medium ; directly, by creating a convenient species of medium in which they are to be received.<sup>3</sup>

It is undeniably within the power of providing for the *collection* of the taxes to appoint the *money* or *thing* in which they are to be paid. Accordingly Congress have declared in the Collection law that the duties on imports and tonnage shall be payable in gold and silver at certain rates. But while it was a necessary part of the work to declare in what they should be payable, it was mere matter of discretion what that medium of payment should be. It might have been, though in-

<sup>1</sup> Lodge, III. 207.

<sup>2</sup> These two paragraphs are struck out.

<sup>3</sup> Lodge, III. 207, 208.

convenient, in the commodities themselves. Taxes in kind are not without precedents even in the United States. It might have been in the paper emissions of the several states, or it might have been in the bills of the Banks of North America, New York, Massachusetts, all or any of them, or it might have been in bills issued under the *Authority* of the United States.<sup>1</sup>

It is presumed there is not a tittle of this which can be controverted. The appointment then of the *money or thing* in which the taxes are to be paid is an object within the discretion of the Government, as incident to the power of Collection. And among the expedients which occur is that of bills *issued under the authority of the United States*.<sup>1</sup>

Now the manner of issuing these bills must be again matter of discretion. There must be agents employed for the purpose. These Agents may be officers of the Government, or they may be *Directors of a Bank*. If the notes of the Bank of North America were made receivable in the taxes, the Directors of that Bank would thereby become ipso facto Agents of the Government for this purpose.

Suppose it were become a necessary mean of preserving the Credit of the bills that they should be made payable in gold and silver *on demand*, and that a sum of money should be *appropriated* and set *apart* as a fund for answering them; designating certain officers of the Government who were to issue the bills and administer the fund. The constitutionality of all this could certainly not be called into question. And yet it would amount to the institution of a Bank, with a view to the more convenient collection of Taxes. For a Bank in the simplest idea of it, is a *deposit* of money or other property as a fund for circulating a credit upon it equivalent to money. The reality of this character would become the more obvious if the place in which the fund was kept should be made the receptacle of the monies of all other persons, who should incline to deposit them there for safe keeping; and if in addition to the rest the officers of this fund were authorized to make discounts at the usual rate of interest upon good security. The first would be an operation within the discretion of the officers themselves, and to deny the power of the Government to authorize the last would be to refine away all government.<sup>2</sup>

This process seems to establish the natural and direct relation between the Institution of a *Bank* and the Collection of taxes, and to shew that it is a mean which may with constitutional propriety be employed in reference to that end. It is true that the species of Bank which has been just designated does not involve the idea of incorporation. But the argument intended to be founded upon it is this, that the *institution or thing* comprehended in the definition of a *Bank* being one immediately relative to the collection of taxes, as it *regards the appointment*

<sup>1</sup> Lodge III., 208; <sup>2</sup> 208, 209.

*of the money or medium*, in which they are to be paid, the sovereign power of passing all laws necessary and proper for the collection of taxes includes that of *incorporating* such an institution as a *requisite* to its greater security, utility and more convenient management

A further process will still more clearly illustrate this point. Suppose when the species of Bank, which has been described, was about to be instituted, it were to be urged that in order to securing to it a proper degree of confidence, the fund ought not only to be set apart and appropriated generally, but ought to be specifically vested in those who were to have the Direction of it, and in their successors in office, to the end that it might become of the nature of private property incapable of being touched without invading the sanctions by which the rights of property are protected and occasioning more serious and general alarm, the apprehension of which might operate as a check upon the Government. Such a proposition might be opposed by arguments against the expediency of it or the solidity of the reason assigned for it; but it is not easy to conceive what could be said against the constitutionality of it, unless it should be a general denial of the power of incorporating in any case. But this it is presumed has been satisfactorily refuted. Here then by a very simple and natural step the quality of a corporation would be given to the institution.<sup>1</sup>

Let the argument proceed a step further. Suppose a Bank of the foregoing nature with or without incorporation had been instituted; and that experience had demonstrated, as it is very probable it would do, that it wanted the confidence requisite to the Credit of its bills, being wholly on a public foundation. Suppose in this state of things that by some of those adverse conjunctures which occasionally attend nations, there had been a very great drain of the specie of the Country so as to cause general distress for want of an adequate medium of circulation and defalcation in the product of the revenue as a consequence of it. Suppose also that there was no Bank instituted in any State — in such a position of things would it not be most evident that the Incorporation of a Bank on the general principle of that proposed by the Bill, namely the Union of the Capitals of a number of individuals under a private management, would be a measure immediately relative to the *effectual Collection* of the taxes?<sup>2</sup>

If it be said that such a state of things would render that *necessary* and therefore constitutional which is not *so* now, the solid answer to this is that *circumstances* may affect the *expediency* of a measure but not the *constitutionality* of it.<sup>2</sup>

It has been shewn that the word *necessary* is not to be taken in so strict a sense. Of this a further illustration may be given here. Congress are to appoint the *thing* in which the taxes are to be paid.

<sup>1</sup> Lodge, III. 209, 210; <sup>2</sup> 210, 211.

This as has been remarked may be commodities or gold and silver or paper. If Congress are authorized to do nothing but what is strictly necessary they cannot require the payment of taxes in gold or silver only because other commodities may answer; nor can they allow them to be received in paper, unless there be no gold or silver.

The institution of a Bank such as that proposed is directly relative to the borrowing of money. Its main business is to lend money. It is *essential*, especially in a Country like this, to the procuring of loans in sudden emergencies. It is the usual instrument relied upon for this purpose in different nations.<sup>1</sup>

A nation is threatened with a war. Considerable sums are wanted on a sudden to make the requisite preparations. Taxes are laid for the purpose; but it requires time to obtain the benefit of them. Anticipation is indispensable. If there be a Bank the supply can at once be had. If there be none, loans of individuals must be resorted to. The progress of these is often too slow for the exigency. In some situations, indeed, they are practicable. Often when they are it is of great importance to be able to anticipate the product of them by advances from a Bank.<sup>1</sup>

The essentiality of this institution as an instrument of loans is exemplified at this very moment. An Indian expedition is to be prosecuted. The only fund out of which the money can arise consistently with the public engagements is a tax which will only begin to be collected in July next. The preparations are instantly to be made. The money must therefore be borrowed. And of whom could it be borrowed if there were no public banks?<sup>1</sup>

It happens that there are institutions of this kind but if there were none it would be indispensable to create one.<sup>1</sup> And can it be believed that the Government would be destitute of the power of doing it?<sup>2</sup>

Let it then be supposed that the necessity existed (as but for a casualty it would) that proposals were made for a loan, that a number of individuals came forward and said— We are willing to accommodate the Government with this money, with what we have in hand and the credit we can raise upon it; we doubt not of being able to furnish the sum required, but in order to this it is absolutely necessary that we should be incorporated with the capacity of a bank. This will not only be a *consideration* with us for the loan but it is [*cetera desunt*].<sup>3</sup>

<sup>1</sup> Lodge, III. 211.

<sup>2</sup> This last sentence is struck out.

<sup>3</sup> Lodge, III. 212. The ms. thus ends abruptly and on the bottom of an odd page, leaving a blank page unused. As the essay was written throughout on both pages of each leaf, it is very probable that Hamilton did not continue the argument further.